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Letter dated 13 April 2017 from the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) addressed to the President of the Security Council

The members of the Panel of Experts established pursuant to Security Council resolution 2206 (2015), whose mandate was extended pursuant to resolution 2290 (2016), have the honour to transmit herewith, in accordance with paragraph 12 (d) of resolution 2290 (2016), the final report on their work.

The report was provided to the Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan on 16 March 2017 and was considered by the Committee on 29 March 2017.

The Panel would appreciate if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Klem **Ryan**
Acting Coordinator
Panel of Experts on South Sudan

(*Signed*) Andrews **Atta-Asamoah**
Expert

(*Signed*) Payton **Knopf**
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Final report of the Panel of Experts on South Sudan

Summary

The de facto collapse of the transitional government of national unity envisaged in the Agreement on the Resolution of the Conflict in the Republic of South Sudan of August 2015, as described in the Panel's reports of September and November 2016 (S/2016/793 and S/2016/963), has left South Sudan with a political arrangement between the President, Salva Kiir, and the First Vice-President, Taban Deng Gai, that does not meaningfully include significant segments of the opposition, other political factions and many influential non-Dinka community leaders. This arrangement is consequently not nationally unifying, has not arrested the security and humanitarian crisis and is increasingly an obstacle to genuine political reconciliation, undermining the transition to the inclusive and sustainable peace envisaged in resolutions 2206 (2015) and 2290 (2016).

The leadership and the country as a whole continue to fracture between and within tribes, as evidenced by a number of recent high-profile resignations from the Sudan People's Liberation Army (SPLA) and the Sudan People's Liberation Movement/Army (SPLM/A) in Opposition in February 2017, notably of one of the most prominent (and one of the last) senior Equatorian officers in SPLA, Lieutenant General Thomas Cirillo Swaka, who launched his own armed opposition movement in March. Notwithstanding some recent statements by the Intergovernmental Authority on Development of a collective position, the regional body has also fractured in its response to the conflict, and coordinated pressure within the region to enforce the Agreement has dissipated in favour of bilateral arrangements between its members and SPLM/A in Government, dictated by these States' national security and economic interests.

While SPLM/A in Government, SPLM/A in Opposition and other armed groups undertook military operations, including the targeting of civilians, throughout 2016 and the first quarter of 2017, by far the largest-scale campaigns have been planned and executed by SPLM/A in Government under the leadership of Kiir. These campaigns — in Upper Nile, Unity, Western Bahr el-Ghazal and Jonglei, as well as in greater Equatoria — have followed a consistent tactical pattern since the major government offensives in 2015, namely a combination of tribal militia and Dinka SPLA forces (with SPLA now including a Dinka militia commonly referred to as the "Mathiang Anyoor") supported by heavy weapons, such as Mi-24 attack helicopters, that the government has procured since the beginning of the war.

As anticipated in the Panel's interim report, these military operations have constituted an escalation of the war in multiple areas during the dry season, the consequences of which are starkly illustrated by the accelerating displacement of the population, most notably — during the period since November — from greater Equatoria. At least 25 per cent of the population have been forced from their homes since December 2013. As at 28 February 2017, more than 1.9 million South Sudanese were internally displaced and more than 1.6 million had fled the country — an increase of almost 280,000 internally displaced persons and 670,000 refugees since the Panel's interim report.

In its previous reports, the Panel presented evidence of widespread violations of international human rights law and international humanitarian law committed by all parties between the outbreak of the war in December 2013 and November 2016. The Panel has concluded that these trends have continued unabated, with near-complete impunity and a lack of any credible effort to prevent the violations or to

punish the perpetrators. In addition to the Panel, at least four other United Nations agencies and investigations have documented the significant increase in tribal violence during and since the de facto collapse of the transitional government in July 2016.

While SPLM/A in Government, including Kiir, has made several public commitments in recent months to allowing unhindered humanitarian assistance, including in a joint communiqué with the Security Council in September 2016, the aid response continues to be obstructed, mainly by SPLM/A in Government. South Sudan remains the deadliest country in the world for humanitarian workers, with the number of reported humanitarian access incidents spiking significantly in the second half of 2016.

The famine declared in two counties of Unity in February 2017 — the implications of which are that at least 100,000 people are dying of starvation and a further 1 million are near starvation — underscores the severity of the humanitarian emergency. The bulk of the evidence suggests that the famine, which had been predicted for two years, has resulted from protracted conflict and, in particular, the cumulative toll of military operations undertaken by the leadership in Juba, the denial of humanitarian access, primarily by SPLM/A in Government, and population displacement resulting from the war.

The scale and scope of the political, humanitarian and economic crises notwithstanding, the Panel continues to uncover evidence of the continuing procurement of weapons by SPLM/A in Government for SPLA, the National Security Service and other associated forces and militias. There is some, largely testimonial, evidence of arms acquisitions by opposition groups, but these supplies appear to have been limited to comparatively low numbers of small arms and light weapons and ammunition.

The political and tribal fractures described herein, although destructive for most South Sudanese, have become the default strategy for some of the country's most prominent political and military figures. This strategy undermines organized, collective resistance to these actors' control and ensures that they maintain their dominance and access to the country's resources. It also ensures that they are able to prevent genuine reforms, credible financial oversight and, ultimately, accountability for the crimes committed against the South Sudanese people, as documented by the Panel and multiple other independent investigations, including the African Union Commission of Inquiry on South Sudan. In addition to the confidential annex presented to the Committee in January 2016, the Panel provided evidence in its reports of 2016 of multiple other individuals responsible for or complicit in the actions and policies described in paragraph 9 of resolution 2290 (2016).

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* Annexes are being circulated in the language of submission only and without formal editing.

I. Background

A. Mandate and appointment

1. By its resolution 2206 (2015), the Security Council imposed a sanctions regime targeting individuals and entities contributing to the conflict in South Sudan and established a sanctions committee (Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan). The Committee designated six individuals for targeted sanctions on 1 July 2015. The sanctions regime was renewed until 31 May 2017 with the adoption by the Council of resolution 2290 (2016) on 31 May 2016.

2. In establishing the sanctions regime, the Security Council decided that the sanctions measures, consisting of a travel ban and an asset freeze, would apply to individuals and/or entities designated by the Committee as responsible for, complicit in or having engaged in, directly or indirectly, actions or policies threatening the peace, security or stability of South Sudan.

3. The Security Council also established a panel of experts (Panel of Experts on South Sudan) to provide information and analysis regarding the implementation of the resolution. This includes information relevant to potential designations and information regarding the supply, sale or transfer of arms and related materiel and related military or other assistance, including through illicit trafficking networks, to individuals and entities undermining political processes or violating international human rights law or international humanitarian law.

4. On 22 June 2016, the Secretary-General, in consultation with the Committee, appointed the five members of the Panel (see S/2016/563): a regional affairs expert (Andrews Atta-Asamoah), a coordinator and armed groups expert (Payton Knopf), a natural resources and finance expert (Andrei Kolmakov), a humanitarian affairs expert (Anna Oosterlinck) and an arms expert (Klem Ryan).

B. Methodology

5. While established by the Security Council, the Panel is an independent body that operates in an objective, fact-based manner and safeguards its work against any effort to undermine its impartiality or create a perception of bias. The full Panel approved the text, conclusions and recommendations contained herein on the basis of consensus.

6. The Panel has been fully committed to ensuring compliance with the standards recommended by the Informal Working Group of the Security Council on General Issues of Sanctions in its report of December 2006 (S/2006/997). Those standards call for reliance on verified, genuine documents, concrete evidence and on-site observations by experts, including photographs wherever possible. The Panel has corroborated all information contained in the present report using multiple, independent sources to appropriately meet the highest evidentiary standard, placing a higher value on statements by principal actors and first-hand witnesses to events.

7. The Panel has conducted its work with the greatest transparency possible while maintaining, when requested or when significant safety concerns exist, the confidentiality of its sources. When a source is described as "confidential" or is not named herein, the Panel has determined that disclosing the source's identity would present a credible threat to his or her safety. When a confidential military source is referred to herein as a "senior" officer or commander in the Sudan People's Liberation Army (SPLA) or the Sudan People's Liberation Movement/Army

(SPLM/A) in Opposition, the source holds a rank between lieutenant colonel and brigadier general. When a confidential military source is referred to as a "high-ranking" officer or commander in SPLA or SPLM/A in Opposition, the source holds a rank of major general or above. A document is described as confidential when its disclosure could compromise the safety of the source.

8. To gather, examine and analyse information regarding the supply, sale or transfer of arms and related materiel, as mandated in resolution 2290 (2016), the Panel has used a combination of first-hand inspections of arms and equipment, photographs, other visual evidence, assessments of documentation and numerous stakeholder interviews. In the absence of an arms embargo, formal inspections of weapon stockpiles were not possible.

9. The Panel is committed to the highest degree of fairness and has given relevant parties the opportunity, where appropriate and possible, to review and respond to any information in its report citing those parties.

C. Cooperation with international organizations and other stakeholders

10. While it operates independently of United Nations agencies and institutions, the Panel nonetheless expresses its sincere gratitude to the leadership and personnel of the United Nations Mission in South Sudan (UNMISS) and the Office of the Special Envoy of the Secretary-General for the Sudan and South Sudan, together with other United Nations staff in Addis Ababa, Kampala, Khartoum and Nairobi, for their invaluable support.

11. As at 14 March 2017, the Panel had sent 96 items of official correspondence to 61 States, organizations and other entities and had received 40 replies providing the information requested (see annex I).

12. In preparation for the present report, the Panel's regional affairs expert submitted applications for visas at the embassies of South Sudan in Pretoria and Nairobi on 3 and 16 February 2017, respectively, in an attempt to visit South Sudan from 20 to 24 February. He was not granted a visa. The reason given by the embassy in Pretoria on 13 February was that it had not received guidance from Juba regarding the application. The embassy in Nairobi, however, returned the application form on 20 February without the visa or a formal explanation. The Panel's coordinator reported these developments to the Chair of the Committee in a letter dated 20 February 2017.[1]

II. Obstruction of reconciliation and peace processes

13. The de facto collapse of the transitional government of national unity envisaged in the Agreement on the Resolution of the Conflict in the Republic of South Sudan, as described in the Panel's reports of September and November 2016 (S/2016/793 and S/2016/963), has left South Sudan with a political arrangement between the President, Salva Kiir, and the First Vice-President, Taban Deng Gai, that does not meaningfully include significant segments of the opposition, including major armed elements of

[1] Before this incident, the normal processing time for visas for the Panel from these embassies had been two to three days.

SPLM/A in Opposition, other political factions[2] and many non-Dinka communities, including large constituencies of the Nuer and the Equatorian tribes and subtribes. This arrangement is consequently not nationally unifying, has not arrested the security and humanitarian crisis and is increasingly an obstacle to genuine political reconciliation, undermining the transition to the inclusive and sustainable peace envisaged in resolutions 2206 (2015) and 2290 (2016).

14. Notwithstanding the assertions of Kiir and Deng Gai that they have a cordial working relationship,[3] the governing leadership is a one-sided arrangement in which Deng Gai's influence is limited and strategic decisions continue to be made largely by Kiir.[4] There is also a perception among the opposition and much of civil society, in addition to many international observers, that the leadership supresses dissent. The Chair of the Joint Monitoring and Evaluation Commission, Festus Mogae, in a statement to the Security Council on the status of implementation of the Agreement on 23 January 2017, said the following:

> The current processes continue to face severe challenges, ranging from diminished representation, growing insecurity in the country, and growing opposition, threats and proposals of renegotiation from the estranged and newly emerging parties. The overall political and security situation in South Sudan therefore remains fragile and precarious.
>
> ...
>
> [The Joint Monitoring and Evaluation Commission] acknowledges the lack of genuine representation of [SPLM/A in Opposition] and maintains that inclusivity and representation within the political process and representation of all parties within essential institutions and mechanisms of the peace agreement must be re-established as quickly as possible.

15. The dominance of Kiir's faction in the prevailing political arrangement has allowed him and the Dinka political and security elites to maintain overwhelming influence over the political and security dynamics of the country, as detailed in the Panel's reports of September and November 2016 (S/2016/793, paras. 13-19, and S/2016/963, paras. 10-12). This has resulted in the continuation of unilateral actions and rule by presidential decree, in contravention of both the Agreement and the transitional Constitution, such as Kiir's decision on 14 January 2017 to raise the number of states to 32, beyond the already controversial 28 states decreed in October 2015, which the Intergovernmental Authority on Development (IGAD) had condemned.[5]

16. SPLM/A in Government therefore remains the main belligerent in the war and continues to accord priority to an aggressive military approach over a political solution to the conflict. The leadership has followed through on a number of the reservations expressed by Kiir upon signing the Agreement in August 2015, including failing to demilitarize Juba and weakening the oversight frameworks, in

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[2] These include the former detainees, Lam Akol's group, Gabriel Changson's Federal Democratic Party and newly established political entities such as the South Sudan National Movement for Change, which was established by the former Governor of Western Equatoria, Joseph Bakosoro. Interview with SPLM/A in Opposition members, the leadership of the Federal Democratic Party, key leaders among the former detainees, civil society activists and members of the Nuer community.

[3] In his speech to the Transitional National Legislature on 21 February 2017, Kiir stated "I am pleased to report to this House that the parties to the Peace Agreement are working harmoniously and the implementation of the agreement is on tract". See the speech of the President on the occasion of the opening of the Transitional National Legislature, p. 4.

[4] As described in the Panel's report of September 2016 (S/2016/793), Kiir replaced Machar as First Vice-President with Deng Gai in July 2016, in contravention of the Agreement.

[5] See the communiqué adopted at the fifty-fifth extraordinary session of the IGAD Council of Ministers, held in Addis Ababa on 30 and 31 January 2016, paras. 7 and 12. Available from https://igad.int/attachments/1275_55COM_Communique.pdf.

particular the Joint Monitoring and Evaluation Commission, which were characterized in the reservations as a "violation of [South Sudanese] sovereignty". Unsurprisingly, the failure to make any meaningful progress in the transition as envisaged in the Agreement has been exacerbated by the failure of all sides to adhere to a permanent ceasefire, as affirmed in the joint statement of the African Union, IGAD and the United Nations on 29 January 2017, in which they expressed "their deep concerns over the continuing spread of fighting, and risk of inter-communal violence escalating into mass atrocities, and the dire humanitarian situation in South Sudan" and "reiterated their call for an immediate cessation of hostilities and urged the parties to ensure inclusivity of the political process, both in the proposed National Dialogue and in the implementation of the [Agreement]".[6]

A. Tribal fractures

17. The continuing fracturing of the leadership along tribal lines, as detailed in the Panel's interim report of November 2016, has resulted from two persistent trends: (a) the progressive marginalization and exclusion of non-Dinkas in SPLA, the security forces and the civilian bureaucracy; and (b) the excesses of the Dinka-dominated military and security services, which have targeted and alienated non-Dinkas.[7]

18. These trends have been illustrated by a number of high-profile resignations from SPLA and the civilian ministries in February 2017, which contradicts the assertion of SPLM/A in Government that the country is on a stable course.[8] (These resignations were presaged by the resignation of the Deputy Chief of General Staff of SPLA and prominent Bul Nuer leader, Lieutenant General Bapiny Mantuil Wicjang, in October 2016, as described in the Panel's interim report.)[9]

19. For example, in a resignation letter addressed to Kiir dated 11 February 2017, the Deputy Chief of General Staff for logistics and, before his resignation, the highest-ranking Equatorian in SPLA, Lieutenant General Thomas Cirillo Swaka, accused the leadership of planning and prosecuting a "tribally engineered war" and orchestrating "planned violations of the peace agreement". He also stated that "the President and some Dinka SPLA officers have systematically frustrated the implementations of the peace agreement and pursued the agenda of Jieng Council of Elders ... agenda of ethnic cleaning, forced displacement of people from ... their ancestral lands and ethnic domination".

20. Cirillo further wrote that Kiir, the SPLA Chief of General Staff, Paul Malong, the Jieng Council of Elders and other Dinka tribal leaders were undermining the SPLA formal chain of command, replacing it with a shadow structure. This argument is consistent with previous trends identified and substantiated by the Panel in 2016. He noted the following:

> The Commander in Chief ... and the Chief of Staff mostly meet in their own residences with close and trusted offices who are their tribesmen (tribal

[6] Available from www.un.org/sg/en/content/sg/note-correspondents/2017-01-29/joint-press-statement-au-igad-and-un-consultations-south.

[7] See, for example, the reasons cited by Lieutenant General Thomas Cirillo Swaka, Colonel Khalid Ono Loki, Gabriel Duop Lam, Brigadier General Henry Oyay Nyago and Colonel Gai Chatim in their resignation letters.

[8] In an interview, the Minister of Cabinet Affairs, Martin Elia Lomuro, claimed that there was no war in the country. See, for example, Hellen Achayo, "National dialogue not subject to review - Dr. Lomoro", Eye Radio, 1 February 2017. Available from www.eyeradio.org/national-dialogue-subject-review-dr-lomoro/.

[9] The Bul Nuer are the only Nuer clan affiliated with SPLM/A in Government. While other Bul leaders remain aligned with Kiir, they have long opposed Deng Gai, dating back to when he governed Unity before the war, and their support for a national leadership that includes him prominently is tenuous.

> commanders). These officers are labelled as 'Loyal Officers.' Strangely, included in these meetings are some members of Jieng Council of Elders, (perhaps as 'non-uniformed officers' — essentially tribesmen directing or advising the army). All the powers in the army is confined to the Chief of General Staff who uses them to build and consolidate the military strength of 'SPLA militia' for implementing the 'Dinka Agenda' of subjugating, humiliating or destroying any of the other tribes who dare to stand in their way. The small number of SPLA soldiers from other tribes are deliberately neglected and left without deployment; they remain unarmed, even during times of emergences. The same treatment is generalised to the other organised forces in non-Dinka States.

21. He also accused Kiir of weakening the army by "tactically and systematically transform[ing] the SPLA into a partisan and tribal army", noting that "it is a militia loyal only to its tribal leadership in the person of President Salva Kiir Mayardit and Chief of General Staff Paul Malong Awan" and that "it has truly become a tribal militia establishment".

22. On 6 March 2017, Cirillo announced the establishment of the National Salvation Front, of which he is the Chair and Commander-in-Chief. In the declaration announcing the establishment, he concluded that the "Kiir regime" must "be stopped by being changed or removed from power by all means necessary". He further asserted that "citizen-imposed change is looming; they have only been waiting for a call to unified resistance against the regime using all means that are available, that are feasible, and that are effective".[10]

23. Shortly after Cirillo's resignation, on 17 February, the head of the SPLA military courts and a judge advocate general, Colonel Khalid Ono Loki, who is from an Equatorian tribe, also resigned, accusing Malong of misusing his office and entrenching tribalism. In his resignation letter addressed to Malong, he stated the following:

> You have often avoided the current courts, tried officers on your own, whilst, crafting and forming alien ones paradoxical to the existent established courts which are in conformity with the law. Your un-qualified clique of friends and relatives who dangerously arrest and sentence as you so wish and command have never attended any law school to carry such responsibility. Un-specified and un-stipulated arrests and detentions fluctuating from months to years without investigation and scrutiny yet on fabricated cases against individuals of non-Dinka ethnicity, registering a serious violation of their rights and converse to the operating laws.

24. Thereafter, in his resignation letter, dated 18 February 2017, the director of military justice and a judge advocate general, Brigadier General Henry Oyay Nyago, who is from the Shilluk tribe, stated the following:

> Mr. President, I have often warned against ethnicisation and partiality policies, alas, these pieces of advice seem to have fallen onto un-mindful ears. Army prisons and jails are full of prisoners of non-Dinka ethnicities. Mr. President you have already un-veiled your tribal intentions and thus demonstrated them in the army parades where you address the troops in your own language. Be reminded that you briefed the general senior officers' meeting at J1 in your language and spoke against the Agreement on the Resolution of the Conflict in the Republic of South Sudan.[11]

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[10] See http://nyamile.com/wp-content/uploads/2017/03/NAS-DECLARATION-06-03-2017-2.pdf.

[11] He specifically referenced a statement attributed to the Minister of Defence and Veterans' Affairs, Kuol Manyang, that "the Dinkas are the only people who liberated South Sudan".

25. The commander of the logistics base brigade, Brigadier General Kamila Otwari Aleardo Paul, who is from an Equatorian tribe, also raised tribalism, favouritism and corruption in the use of State funds to arm Dinka militiamen as the basis for his resignation on 21 February 2017. Others who resigned and/or defected in February include the Minister of Labour, Public Services and Human Resource Development, Gabriel Duop Lam,[12] and the Defence Attaché of South Sudan to Uganda, Rwanda, and Burundi, Colonel Gai Chatim Pouch, both of whom are Nuer.[13] They subsequently joined SPLM/A in Opposition.

26. On 7 March 2017, the commander of the Murle-dominated South Sudan Democratic Movement/Army, which had been affiliated with the leadership in Juba since 2014, General Khalid Butrus Bora, announced that he was joining the National Salvation Front.[14]

27. Some officers have also defected from SPLM/A in Opposition to the National Salvation Front, including the sector commander for Western Bahr el-Ghazal, General Faiz Ismail Fatur, and the deputy spokesperson of SPLM/A in Opposition, Colonel Nyarji Jermlili Roman.[15]

B. Incitement to violence

28. In its interim report of November 2016, the Panel highlighted the use of social media to incite violence, which garnered significant attention among many of those most responsible. As a result of the Panel's report and other statements by United Nations officials, including the United Nations High Commissioner for Human Rights, many of the social media accounts used for incitement have become less active, and others have subsequently migrated to closed community forums,[16] which have restricted access and are more difficult to monitor. As public incitement has become more hidden, social media threats and attacks targeting specific individuals have concomitantly increased, as shown in figure I.

[12] Gabriel Duop Lam resigned in a press statement dated 18 February.

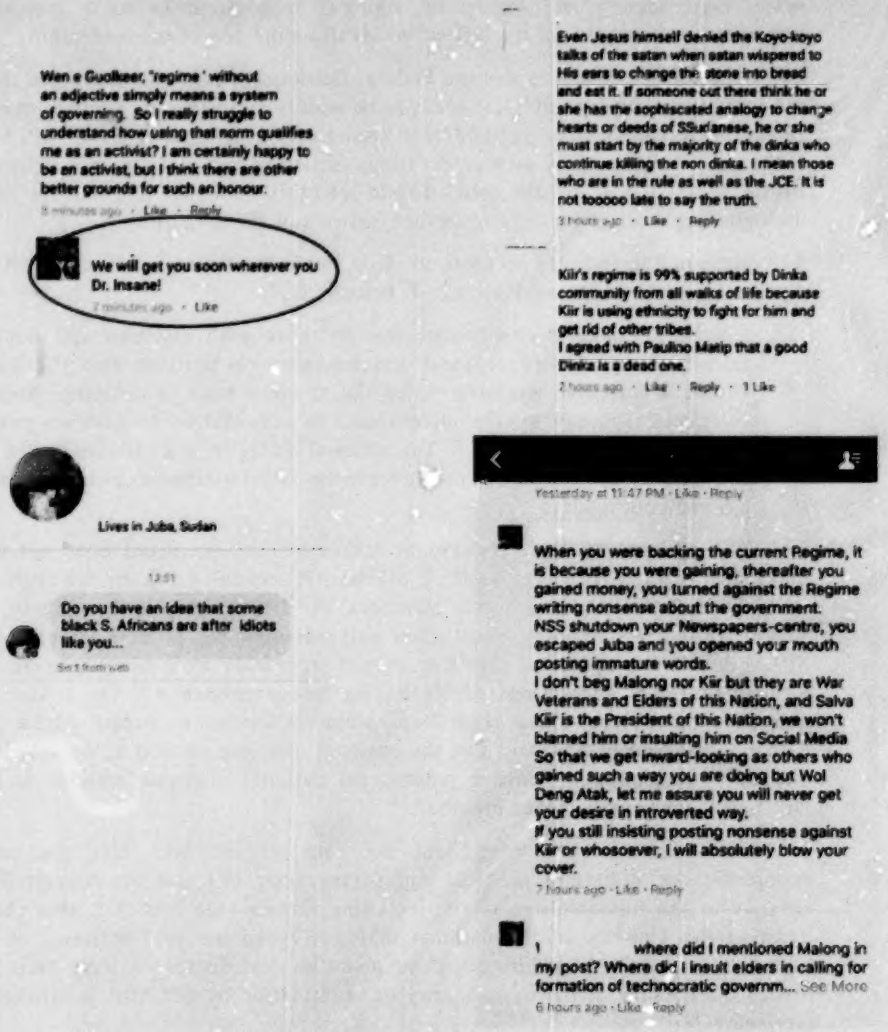
[13] Colonel Gai Chatim Pouch issued a declaration to join SPLM/A in Opposition on 2 February 2017. See www.southsudannewsagency.com/index.php/2017/02/09/colonel-gai-chatim-pouchs-statement-defection-splma-io/.

[14] See www.southsudannation.com/gen-khalid-butrus-bola-c-in-c-of-ssdma-announces-merger-with-gen-cirillos-national-salvation-front/.

[15] The resignation letter by General Faiz Ismail Fatur was dated 9 March 2017 and that by Colonel Nyarji Jermlili Roman 11 March 2017. Both were submitted to Machar.

[16] This is based on interviews with numerous South Sudanese civil society sources in Juba, Nairobi and Addis Ababa in December 2016 and from 13 to 22 February 2017 and was also confirmed by three exiled South Sudanese nationals active on social media.

Figure I
Screenshots of social media featuring threatening language


Even Jesus himself denied the Koyo-koyo talks of the satan when satan wispered to His ears to change the stone into bread and eat it. If someone out there think he or she has the sophiscated analogy to change hearts or deeds of SSudanese, he or she must start by the majority of the dinka who continue killing the non dinka. I mean those who are in the rule as well as the JCE. It is not tooooo late to say the truth.
3 hours ago · Like · Reply
Wen e Guolkeer, "regime" without an adjective simply means a system of governing. So I really struggle to understand how using that norm qualifies me as an activist? I am certainly happy to be an activist, but I think there are other better grounds for such an honour.
5 minutes ago · Like · Reply
We will get you soon wherever you Dr. Insane!
2 minutes ago · Like
Kiir's regime is 99% supported by Dinka community from all walks of life because Kiir is using ethnicity to fight for him and get rid of other tribes.
I agreed with Paulino Matip that a good Dinka is a dead one.
2 hours ago · Like · Reply · 1 Like
Lives in Juba, Sudan
13:51
Do you have an idea that some black S. Africans are after idiots like you...
Sent from web
Yesterday at 11:47 PM · Like · Reply
When you were backing the current Regime, it is because you were gaining, thereafter you gained money, you turned against the Regime writing nonsense about the government.
NSS shutdown your Newspapers-centre, you escaped Juba and you opened your mouth posting immature words.
I don't beg Malong nor Kiir but they are War Veterans and Elders of this Nation, and Salva Kiir is the President of this Nation, we won't blamed him or insulting him on Social Media So that we get inward-looking as others who gained such a way you are doing but Wol Deng Atak, let me assure you will never get your desire in introverted way.
If you still insisting posting nonsense against Kiir or whosoever, I will absolutely blow your cover.
7 hours ago · Like · Reply
I where did I mentioned Malong in my post? Where did I insult elders in calling for formation of technocratic governm... See More
6 hours ago · Like · Reply

C. National dialogue

29. On 14 December 2016, Kiir announced a national dialogue "to end all violent conflicts in South Sudan, reconstitute national consensus, and save the country from disintegration and usher in a new era of peace, stability and prosperity".[17] The process is to be steered by a national committee of eminent personalities and a

[17] The broad objective, as presented in Kiir's speech, differs slightly from its wording in the concept note document, which states that "the objectives of the national dialogue are to end all violent conflicts in South Sudan, constitute national consensus, and save the country from disintegration and foreign interference". See the section on the objectives of the national dialogue in the concept note by Kiir distributed to the National Legislative Assembly at the launch of the process on 14 December 2016. By way of comparison, see the speech given by Kiir announcing the commencement of the national dialogue on 14 December 2016, available from www.eyeradio.org/president-salva-kiir-state-nation-address-full-text/.

secretariat, with Kiir as its patron.[18] Its intended objective notwithstanding, Kiir's role in the process and perceptions of its lack of inclusivity have been raised by many civil society and opposition figures, in addition to some international observers, as indicative of the lack of goodwill on the part of the leadership.[19]

30. The former detainees and the Federal Democratic Party have insisted that, for the initiative to be successful, it needs to be widely inclusive and should not be held in South Sudan. In a press statement issued on 15 December 2016, SPLM/A in Opposition expressed its own reservations, insisting that it "does not believe that President Salva Kiir has the credibility to lead this dialogue" and that the national dialogue is a mechanism to "circumvent justice and accountability".

31. Responding to these accusations, Kiir stated the following in a speech to the National Legislative Assembly on 21 February 2017:

> I want to make it absolutely clear to those who question and doubt our intentions and to our regional and international partners that the National Dialogue initiative we have rolled out is not a trick, a delaying tactic or a calculated strategy by the government to consolidate its grip on power as anti-peace elements claim ... The national dialogue is a genuine desire of the people of South Sudan and the government is determined to push it forward as has been outlined.

32. The national dialogue process as currently conceptualized does not in fact make any explicit overtures to Riek Machar. His exclusion from the region (see sect. D) notwithstanding, some members of the diplomatic community have suggested that a genuinely constituted national dialogue process should involve SPLM/A in Opposition and that Kiir should step aside from his patronage of the process to refute perceptions of his having undue influence.[20] On 7 March, for example, the African Union High Representative for South Sudan, Alpha Oumar Konaré, speaking in Yei, said that the national dialogue needed a "neutral leader" and that "we cannot go into a meaningful national dialogue without including Dr. Riek Machar in the peace process".[21]

33. Continued violence throughout the country (see sect. III), the ongoing suppression of civil and political rights (see sect. IV) and the magnitude and severity of the humanitarian crisis, including famine (see sect. V), also call into question the viability of the national dialogue when the vast majority of South Sudanese are currently enduring such an acute level of distress or have been forced to flee the country owing to insecurity or intimidation by SPLM/A in Government (see sect. D).

D. Regional context

34. The position of the individual States members of IGAD towards the situation in South Sudan has become less clear in the eight months since the de facto collapse of the transitional government. Notwithstanding the statements of a collective

[18] By way of comparison, see the speech given by Kiir announcing the commencement of national dialogue on 14 December 2016.

[19] Confidential interviews with multiple senior opposition group leaders in the region, civil society activists and members of the diplomatic community, 14-20 February 2017.

[20] Interviews with two African diplomats, two other members of the diplomatic community and several civil society activists in Addis Ababa, 13 and 14 February 2017, and Pretoria, 27 January 2017.

[21] "African Union High Representative says dialogue initiative needs neutral leader", Radio Tamazuj, 7 March 2017. Available from https://radiotamazuj.org/en/article/au-high-representative-says-dialogue-initiative-needs-neutral-leader.

position, such as the above-mentioned joint statement of January 2017 by the African Union, IGAD and the United Nations, coordinated pressure to enforce the Agreement has dissipated in favour of bilateral arrangements dictated by national security and economic interests.

35. IGAD members are no longer insisting on "returning to the status quo ante in line with the [Agreement]", as initially demanded by the IGAD-Plus members in August 2016, when they encouraged Machar to rejoin the peace process and Deng Gai "to step down ... for the sake of peace and stability".[22] Instead, in January 2017 IGAD referred to the "framework" of the Agreement. Subsequent communications and actions of IGAD and its member States have also shifted against supporting Machar's return to the transitional government.[23] In an interview on 10 February 2017, the Chair of the Joint Monitoring and Evaluation Commission stated that the "international community, including IGAD, have decided that [Machar] should not be allowed to come back into South Sudan for now, until such time that preparations for elections can start".[24] An attempt by Machar to return from South Africa to the region in November 2016 was rebuffed by the Governments of the Sudan and Ethiopia, both of which cited pressure from the United States of America.[25]

36. A strong regional or international modality for demanding accountability and adherence to the provisions and timelines of the Agreement has also been lacking. Accordingly, as documented by the Panel in multiple reports, as well as by the Joint Monitoring and Evaluation Commission and other international bodies, the parties to the Agreement, in particular SPLM/A in Government, continue to breach the Agreement without censure or consequences from the region or the broader international community, including the Security Council.

37. In February 2017, in his speech during the opening of the National Legislative Assembly, Kiir in fact affirmed that, "despite attempts to isolate ... South Sudan diplomatically, we continue to enjoy wonderful diplomatic relations in the region ... with all IGAD countries as well as members of the East African Community". Taking advantage of the "wonderful diplomatic relations in the region", the leadership has signed at least eight bilateral agreements with Ethiopia, some of which seek to prevent the use of Ethiopian territory for "rebel activities"[26] and has also "witnessed strengthened relationship with ... Sudan".[27] These agreements notwithstanding, as at the time of submission of the present report, the Panel had

[22] See the communiqué adopted at the second IGAD-Plus extraordinary summit on the situation in South Sudan, paras. 13 and 15. Available from https://igad.int/attachments/article/1383/1408_AGREED%20FINAL%20COMMUNIQUE%20-%20IGAD%20Plus%20on%20South%20Sudan%20in%20Addis.pdf. The idea for Taban to step aside upon the return of Riek Machar was also reiterated by Ezekiel Lol Gatkuoth at the Crown hotel in Juba on 23 July 2016.

[23] In a communiqué issued on 9 December 2016, IGAD stated that "inclusivity is not about individuals, but it is a process of ensuring genuine representation of the national character in the implementation of the [Agreement]". See www.mfa.go.ke/wp-content/uploads/2016/12/Final-Communique%CC%81-of-the-29th-Extraordinary-IGAD-Summit.pdf.

[24] Interview broadcast as part of Focus on Africa on BBC television on 10 February 2017.

[25] Interview with Angelina Teny, December 2016. Before this incident, however, the Prime Minister of Ethiopia, Hailemariam Desalegn, had told *Foreign Policy* that Riek Machar "will be allowed to pass through Ethiopia in his travels but is not welcome to stay again long-term" and that "we do not need someone who is leading an armed struggle in Ethiopia". See Brian Stout and Siobhán O'Grady, "Ethiopian PM blames Olympic protest on U.S.-based dissenters", *Foreign Policy*, 21 September 2016. Available from http://foreignpolicy.com/2016/09/21/ethiopian-pm-blames-olympic-protest-on-u-s-based-dissenters/.

[26] See, for example, the joint communiqué issued at the end of an official State visit by Kiir to Ethiopia, Addis Ababa, 24 February 2017.

[27] See https://paanluelwel2011.files.wordpress.com/2017/02/the-speech-of-president-kiir-during-the-opening-of-the-national-assembly-21-february-2017.pdf.

confirmed that figures from multiple South Sudanese opposition groups continued to move throughout the region, including in Ethiopia and the Sudan.

38. The bilateral relations of SPLM/A in Government have afforded it an opportunity to clamp down on the activities of the opposition in some neighbouring States. In his speech to the National Legislative Assembly on 21 February 2017, Kiir asserted that he would "take extreme measures to neutralize anti-peace elements anywhere". According to the various opposition groups based in the region, in particular Kenya, their operations have been placed under surveillance by South Sudanese security operatives, with the aim of curtailing their activities through intimidation, kidnapping and forced repatriation.[28] Activists, human rights defenders and opposition members have been threatened; some told the Panel that informants operating under the supervision of security operatives in South Sudanese embassies, with the support of regional partners, were clamping down on opposition activists.[29]

39. In November 2016, the Kenyan authorities arrested and repatriated the spokesperson of SPLM/A in Opposition, James Gatdet Dak, purportedly for welcoming the dismissal by the Secretary-General of the Force Commander of UNMISS, General Johnson Mogoa Kimani Ondieki, a Kenyan. The deportation was in violation of the country's commitment to the principle of non-refoulement under international refugee law.[30] Subsequently, in January 2017, two South Sudanese citizens, Aggrey Idri, a member of SPLM/A in Opposition, and Dong Samuel Luak, a prominent South Sudanese human rights lawyer, disappeared in Nairobi. Subsequent court proceedings revealed the names of John Top Lam and Michael Kuajian as persons suspected to be connected to their disappearance. The Panel will provide additional information on this case, including on the individuals involved, in a confidential annex.

40. Some Kenyan politicians have in fact campaigned against South Sudanese opposition groups. Prominent among them is Weston Wanjohi Wahome, who calls himself the regional coordinator of the Friends of South Sudan in East Africa. When Kenya forcibly returned Gatdet Dak,[31] Wahome taunted him on Facebook by posting "say hi to Mathiang Anyoor!".[32] Wahome had been among the first to blame Gatdet Dak after the Kenyan statement in response to the dismissal of General Ondieki had been signed.[33] He asked on his Facebook page, in Kiswahili, "where is James Gatdet Dak?". His Facebook page regularly posts other veiled threats and incitement

[28] Interviews with members of the former detainees, opposition parties and SPLM/A in Opposition and civil society activists in exile in the region.

[29] Confidential interviews with opposition politicians, representatives of SPLM/A in Opposition and civil society activists in exile in Addis Ababa and Nairobi, 13-22 February 2017.

[30] UNHCR, "News comment by UNHCR's spokesperson Cécile Pouilly, on the return of Mr. James Gatdet Dak to South Sudan", press release, 4 November 2016. Available from www.unhcr.org/en-us/news/press/2016/11/581ca3924/news-comment-unhcrs-spokesperson-cecile-pouilly-return-mr-james-gatdet.html.

[31] Gatdet Dak has been registered as a refugee in Kenya since August 2015 and his forced return to South Sudan places him at grave risk of torture and other ill-treatment, thus violating the principle of non-refoulement under international refugee law.

[32] The Mathiang Anyoor is a Dinka militia that, according to the African Union Commission of Inquiry on South Sudan in its final report, issued in 2014, was recruited by Kiir and Malong and committed atrocities in Juba and elsewhere, beginning with the outset of the war in December 2013. See www.facebook.com/1426573450976718/photos/a.1501666143467448.1073741830.1426573450976718/1632700423697352/?type=3&permPage=1.

[33] See www.facebook.com/1426573450976718/photos/a.1501666143467448.1073741830.1426573450976718/1632369270397134/?type=3&permPage=1.

against South Sudanese opposition groups, especially those based in Kenya, as the samples in figure II and annex II illustrate.[34]

Figure II
Facebook posts on the page of Weston Wanjohi Wahome

41. These developments have led the opposition to perceive the region as having sided with SPLM/A in Government, and several senior opposition leaders have directly expressed doubts to the Panel about the existence of neutral mediators in the region.[35]

[34] See www.facebook.com/Hn-Weston-Wanjohi-1426573450976718/?ref=page_internal.
[35] Interview with a high-profile opposition figure, Nairobi, 21 February 2017.

III. Expansion and extension of the conflict

A. Propagation and conduct of the war

42. In its previous reports, the Panel extensively documented the consistent failure of the parties to the Agreement to adhere to the ceasefire obligations thereunder and their continued pursuit of a military, rather than political, solution to the war. While SPLM/A in Government, SPLM/A in Opposition and other armed groups undertook operations, including targeting of civilians, throughout 2016 and the first quarter of 2017, the largest-scale military campaigns during this period have been planned and executed by SPLM/A in Government under the leadership of Kiir.

43. These campaigns — in Upper Nile, Unity, Western Bahr el-Ghazal and Jonglei, as well as in greater Equatoria — have followed a relatively consistent tactical pattern since the major government offensive between April and August 2015, i.e. coordinated offensives by tribal militia and Dinka-dominated SPLA forces supported by heavy weapons, such as Mi-24 attack helicopters, that the government has procured since early 2014[36] (sect. VI provides additional information on arms procurement). For example, the government's arming of and reliance upon Bul Nuer militias as the principal ground force for the offensive in Unity in 2015 mirrors its use of Dinka militias to prosecute the war in greater Equatoria in 2016/17.

44. In the weeks preceding the submission of the present report, SPLA conducted offensives in Upper Niie, in particular around Wau Shilluk on the western bank of the Nile near the Sudanese border; in and around Yuai, northern Jonglei, in the territory populated mainly by the Lou Nuer; and in locations in the Equatorias, in particular the region around Kajo Kaji, Morobo and the hinterlands around Yei near the borders with the Democratic Republic of the Congo and Uganda. There have also been reports of fighting in central and southern Unity, near Mayendit and Leer (the home area of Machar), in rural areas of Western Bahr el-Ghazal and near Torit in Eastern Equatoria.

45. During the same period, the most significant military operations by SPLM/A in Opposition were undertaken by the affiliated Agwelek militia under the command of Lieutenant General Johnson Olony in Upper Nile at the end of January. While it is unclear whether SPLA or SPLM/A in Opposition/Agwelek initiated the fighting, the latter subsequently shelled multiple SPLA positions in and around Malakal, in Wau Shilluk and north towards Renk; both sides engaged in ground operations; and SPLA launched an incursion into Wau Shilluk as well as northern Jonglei, which had been under the control of SPLM/A in Opposition since 2013. SPLM/A in Opposition has since launched a counteroffensive.

46. In greater Equatoria, militias opposed to SPLM/A in Government have continued the guerrilla campaign described in the Panel's reports of September and November 2016 — a conflict between Equatorian militias and SPLA that is rooted in territorial disputes exacerbated by the Dinka domination of the country's political and security institutions, cattle movements and land-grabbing.

Forced displacement of civilians

47. As anticipated in the Panel's interim report of November 2016, the military operations have resulted in an escalation of the war in multiple areas, the consequences of which are starkly illustrated by the accelerating displacement of

[36] As described at length in the Panel's report of January 2016 (S/2016/70), Bul Nuer militiamen played an instrumental role in the offensive in Unity in 2015. In the government campaigns in greater Equatoria, the tribal militias are predominantly Dinka and are increasingly indistinguishable from the Dinka SPLA units involved. There has been, in essence, an amalgamation of the Mathiang Anyoor with SPLA.

the population, most notably — during the period since November — from greater Equatoria.

48. At least 25 per cent of all South Sudanese have now been forced from their homes since the outbreak of the war in December 2013.[37] As at 28 February 2017, more than 1.9 million South Sudanese had been internally displaced[38] and more than 1.6 million had fled the country — an increase of almost 280,000 internally displaced and 670,000 refugees since the Panel's interim report of November 2016.[39] South Sudan is now the largest refugee crisis in Africa and the third largest globally, after the Syrian Arab Republic and Afghanistan. More than 60 per cent of the refugees are children, many of whom are severely malnourished. Recent new arrivals are reporting intense fighting, kidnappings, rape, fear of armed groups and threats to life, in addition to acute food shortages.[40]

49. Uganda has received just under half of these refugees.[41] While the daily influx varies, the rate of new arrivals remains consistently high. On 21 July, immediately following the clashes in July, 8,337 South Sudanese refugees crossed into Uganda.[42] On 13 December, 7,046 new arrivals were recorded in a single day.[43] As a result of these sustained inflows, on 23 February the Office of the United Nations High Commissioner for Refugees (UNHCR) announced the opening of a new settlement area in Uganda.[44]

Command and control

50. All available evidence continues to support the Panel's previous findings of command responsibility within the government, as described in all of its reports in 2016, and of the centrality of Kiir and the SPLA Chief of General Staff, Paul Malong, among others, in planning and executing military operations.[45]

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[37] International Organization for Migration (IOM), "Urgent action needed to help millions facing famine in South Sudan, Somalia, Yemen, North-east Nigeria", 28 February 2017. Available from www.iom.int/news/urgent-action-needed-help-millions-facing-famine-south-sudan-somalia-yemen-north-east-nigeria.

[38] Including almost 224,000 seeking refuge in UNMISS sites for the protection of civilians.

[39] These statistics include persons displaced before and after the outbreak of the war in December 2013. See UNHCR South Sudan Operational Update, No. 4/2017, 15-28 February 2017, and No. 19/2016, 1-15 October 2016, available from http://data.unhcr.org/SouthSudan/documents.php?page=1&view=grid#page-5.

[40] UNHCR, "With no solution in sight, refugee numbers from South Sudan cross 1.5 million mark", briefing note, 10 February 2017. Available from www.unhcr.org/589d82834.html.

[41] A total of 764,326 refugees. See UNHCR South Sudan Operational Update, No. 4/2017.

[42] UNHCR, "Over 26,000 people flee to Uganda to escape uncertainty in South Sudan", briefing note, 22 July 2016. Available from www.unhcr.org/5791e2d04.html.

[43] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: South Sudan, No. 20, 21 December 2016. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/ss.pdf.

[44] UNHCR, "New refugee settlement opens in Uganda as thousands of South Sudanese continue to flee everyday", 23 February 2017. Available from http://reliefweb.int/report/uganda/new-refugee-settlement-opens-uganda-thousands-south-sudanese-continue-flee-every-day.

[45] In its report of September 2016 (S/2016/793), the Panel indicated that the Ministry of Foreign Affairs and the Office of the President had confirmed that the members of the "national security council", with primary responsibility for security decisions and planning military operations, consisted of the following individuals: the President, Kiir; the Minister of Defence and Veterans' Affairs, Kuol Manyang; the SPLA Chief of General Staff, Malong; the Minister of Information, Michael Makuei; the then Minister of Finance, Deng Athorbi (whom Kiir replaced with Stephen Dhieu Dau in July); the Minister for National Security, Obutu Mamur; the Director of the Internal Security Bureau of the National Security Service, Akol Koor; the Director of the External Security Bureau of the National Security Service, Thomas Duoth; and the Presidential Adviser, Kew Gatluak.

51. Similarly, as stated in the Panel's interim report of November 2016, the armed opposition to Kiir's leadership is an increasingly multifaceted amalgam of forces encompassing dissident groups with diverse grievances, aims and approaches to the war. Many of these groups are either not under the direct control of SPLM/A in Opposition led by Machar, which was a party to the Agreement, or are only loosely affiliated with it. Indeed, the leadership of the opposition is increasingly diffuse, even if many elements share a common cause in opposition to the leadership in Juba. There are also examples, especially in Eastern Equatoria, of armed elements conducting attacks, including on civilians, for purely criminal purposes. Armed individuals have been seen to shift back and forth between the security forces, armed political factions or criminal elements in this fluid and unstable environment. It is therefore increasingly difficult to ascertain the motives behind some of these smaller-scale incidents and to definitively attribute them to specific, identifiable groups.

52. In ascribing command responsibility for actions or policies meeting the criteria for the imposition of sanctions described by the Security Council in paragraphs 6 and 7 of its resolution 2206 (2015) and, subsequently, of paragraphs 8 and 9 of resolution 2290 (2016), the Panel has, since its report of January 2016, followed the understanding of command responsibility outlined in articles 86 and 87 of Additional Protocol I to the Geneva Conventions of 1949, to which South Sudan acceded in July 2012. Article 86 states that, among other things, parties to the Conventions are required to "repress grave breaches" of the Conventions. Furthermore, according to article 86:

> The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.

53. The essential elements for command responsibility therefore require that there was a relationship, even if de facto, between a superior and a subordinate, linking those who committed the breach to the commander at the time of the commission of the breach; that the superior had knowledge or had reason to know that his or her subordinates had committed or were likely to commit the breach; and that there was a failure on the part of the superior to take all measures necessary and reasonable to prevent or to punish the breach. It is not therefore required for the commander to have ordered the specific act to qualify as demonstrating command and control. It is necessary only that he or she should have reasonably foreseen that the act was likely and failed to respond appropriately to prevent its occurrence. Such actions as arming and deploying soldiers who have breached, or are likely to breach, international humanitarian law would be sufficient to attribute command responsibility under this definition, for example.

B. Macroeconomic conditions

54. The International Monetary Fund concluded an article IV consultation early in December 2016. Its report will be presented to the Executive Board on 15 March. While some evidence suggests that the efforts of the Minister of Finance, Stephen Dhieu Dau,[46] to rebalance the revenue and expenditure of the national budget have

[46] In its report of January 2016 (S/2016/70), the Panel described Dhieu Dau's use of State funds, while Minister of Petroleum and Mining, to procure arms for the Dinka Padang militia in Upper Nile.

somewhat reduced inflation (from 479 per cent[47] in December 2016 to 370 per cent in January 2017), the key drivers of economic volatility remain unchanged and the economic situation remains bleak, as described in the Panel's interim report of November 2016. High commodity prices continue to limit food access, and trade flows to and within the country remain disrupted owing to continuing insecurity on the main roads and the shortage of dollars, which limits traders' ability to import goods.

55. The unstable exchange rate of the South Sudanese pound is reflective of the deteriorating economic situation. The currency further depreciated on the parallel market from 75 South Sudanese pounds to the dollar in October 2016 to 90 in mid-December 2016.[48] In the first week of January 2017, $1 was selling for a parallel rate of 105 South Sudanese pounds.[49]

56. The central bank has almost exhausted its foreign currency reserves, which has limited its ability to play a role in stabilizing the economy.[50] To avoid default and provide liquidity, it may have borrowed between $80 million and $200 million from commercial banks, rendering those banks unable to meet the obligations to their customers, and printed notes, exacerbating inflation.[51] The lack of foreign currency reserves and the risk of losing control over inflation have resulted in repeated requests by the Minister of Finance for international financial support.[52] By the beginning of March 2017, however, no budgetary support had been pledged. To close the budget deficit of some $200 million, the leadership was considering the cancellation of State fuel subsidies.[53]

57. Some 97 per cent of known government revenue continues to be derived from oil sales, a significant portion of which is now forward oil sales,[54] and, as documented in the Panel's previous reports, at least half of the budget — and likely substantially more — is devoted to security, including arms procurement. According to calculations by the Panel on the basis of data that it obtained and verified, revenue from forward oil sales totalled some $243 million between late March and late October 2016.[55]

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[47] See www.tradingeconomics.com/south-sudan/inflation-cpi.

[48] Famine Early Warning Systems Network, "Extreme levels of food insecurity expected across South Sudan in 2017", South Sudan Food Security Outlook Update (December 2016). Available from www.fews.net/east-africa/south-sudan/food-security-outlook-update/december-2016.

[49] *Sudan Tribune*, "S. Sudanese pound further weakens against U.S. dollar", 7 January 2017. Available from www.sudantribune.com/spip.php?article61328.

[50] International Monetary Fund, "IMF staff completes 2016 article IV mission on South Sudan", press release, No. 16-556. Available from www.imf.org/en/News/Articles/2016/12/13/pr16556-IMF-Staff-Completes-2016-Article-IV-Mission-on-South-Sudan.

[51] Confidential interview with a South Sudanese source with knowledge of the central bank operations. See also J. Laddu, "The Bank of South Sudan is rapidly facilitating the collapse of commercial banks in South Sudan", 17 October 2017. Available from www.nyamile.com/2016/10/17/the-bank-of-south-sudan-is-rapidly-facilitating-the-collapse-of-commercial-banks-in-south-sudan.

[52] *Sudan Tribune*, "S. Sudan seeking aid to close budget deficit", 9 February 2017. Available from www.sudantribune.com/spip.php?article61612.

[53] *Sudan Tribune*, "Juba Parliament splits over removal of fuel subsidy", 10 February 2017. Available from www.sudantribune.com/spip.php?article61625.

[54] Moyiga Nduru and Richard Rubin, "Feature: South Sudan's fragile oil industry faces uphill struggle", S&P Global Platts, 19 January 2017. Available from www.platts.com/latest-news/oil/juba/feature-south-sudans-fragile-oil-industry-faces-26643336.

[55] Confidential document held by the Panel.

58. The current level of oil production in South Sudan remains low, however, at between 120,000 and 130,000 barrels per day.[56] The country currently pumps oil only from Upper Nile after production in Unity was halted by the conflict in 2014.[57]

59. In January 2017, the Minister of Finance stated that oil wells in Unity would resume production within two months, which, if achieved, could boost the total oil production to 290,000 barrels per day for the fiscal year 2017/18.[58] The potential for increased oil output remains unlikely, however, owing to the continuing military operations in Unity[59] and the absence of tangible progress in securing an investor to fund the repairs necessary to rehabilitate the damaged wells. Oranto Petroleum Company of Nigeria signed an agreement in early 2017 with SPLM/A in Government to explore block B3 in Jonglei, Lakes and Central Equatoria, although the details of this agreement are not public. Media reports indicate, however, that the initial three-year exploration period will involve minimal costs to Oranto, such as airborne surveys, and therefore the agreement may not represent a significant investment by Oranto at this time.[60]

60. Oil revenue is also limited by the continuing in-kind payments to the Sudan, in accordance with the agreement signed by the two countries in September 2012 that stipulated that South Sudan would pay the Sudan $3.028 billion for oil transit fees over four years.[61] South Sudan failed to pay fees equalling that amount and, on 21 December 2016, both parties agreed to extend the agreement for a further three years.[62] While details of the renewed arrangement, including how much money South Sudan still owes the Sudan, are not fully public, the Panel has estimated, on the basis of credible evidence, that South Sudan had paid $1.6 billion in transit fees to the Sudan as at November 2016.[63]

IV. Violations of international humanitarian and international human rights law

61. In its previous reports, the Panel presented evidence of widespread violations of applicable international human rights law and international humanitarian law committed by all parties between the beginning of the war in December 2013 and November 2016, in addition to evidence of those responsible for the actions and policies that had led to those violations. On the basis of site visits and interviews

[56] Damir Kaletovic, "South Sudan plans to double oil production", Oilprice.com, 27 January 2017. Available from http://oilprice.com/Latest-Energy-News/World-News/South-Sudan-Plans-To-Double-Oil-Production.html.

[57] *Sudan Tribune*, "S. Sudan President orders deployment of troops to oil fields", 8 December 2016. Available from www.sudantribune.com/spip.php?article61059.

[58] Kaletovic, "South Sudan plans to double oil production". Individuals with knowledge of the issue who spoke with the Panel suggested that, contrary to the pronouncements of the leadership in Juba, it would take at least 12 months for the Unity oil fields to be returned to operation.

[59] *Sudan Tribune*, "S. Sudan deploys more troops in oil fields to boost production", 16 February 2017. Available from www.sudantribune.com/spip.php?article61668.

[60] "Nigerian oil company agrees to explore South Sudan block", Radio Tamazuj, 7 March 2017. Available from https://radiotamazuj.org/en/article/nigerian-oil-company-agrees-explore-south-sudan-block.

[61] See the agreement between the Government of South Sudan and the Government of the Sudan on oil and related economic matters, signed in Addis Ababa on 27 September 2012, art. 4.4.1.

[62] Readtru, "Sudan and South Sudan extend oil agreement for three additional years", 22 December 2016, available from www.readtru.com/sudan-south-sudan-extend-oil-agreement-three-additional-years/; Energy Institute Knowledge Service, "Sudan and South Sudan renew oil agreement", 13 January 2017, available from https://knowledge.energyinst.org/Energy-Matrix/product?product=107627.

[63] Confidential interview with SPLM/A in Opposition member in Nairobi, November 2016.

with victims, witnesses and multiple independent sources with first-hand knowledge, supplemented by a thorough review of documentation, the Panel has determined that these violations have persisted since the submission of its interim report of November 2016, with near-complete impunity and the lack of any genuine effort to prevent these violations or to punish the perpetrators.

62. The Panel found that the violations included extrajudicial killings, torture, arbitrary arrests and detention, attacks on aid workers, enforced disappearances, incitement to violence, restrictions on freedom of the press, violations to the right of freedom of expression and opinion, forced displacement of populations, harassment and intimidation in order to spread terror, recruitment and use of children, restrictions on freedom of movement, beatings and other forms of ill-treatment, looting and destruction of livelihoods, homes, hospitals and schools. All parties have used conflict-related sexual violence, including rape and gang rape, as a tactic of war.

63. Under international human rights law, a government bears the primary responsibility for protecting its civilian population from human rights violations and ensuring accountability for these abuses. The failure of the leadership in Juba to prevent or punish the abuses documented by the Panel and others, and indeed its active involvement in many instances, is a key driver of the war. Multiple independent investigations undertaken by the United Nations and the African Union, including but not limited to the Panel's, have pointed to the same trends, including the African Union Commission of Inquiry on South Sudan, the Commission on Human Rights in South Sudan, the Assistant Secretary-General for Human Rights and the joint UNMISS-Office of the United Nations High Commissioner for Human Rights (OHCHR) investigation into the violence of July 2016 in Juba.[64] The Commission on Human Rights in South Sudan, the Special Adviser of the Secretary-General on the Prevention of Genocide and others have therefore suggested setting up an international, impartial and independent investigation to collect, analyse and preserve evidence for future use when the hybrid court envisaged in chapter V of the Agreement has been established, in order to ensure that valuable evidence is not lost or degraded.[65]

A. Targeting of civilians on a tribal or political basis

64. In its report of January 2016 (S/2016/70), the Panel documented the systematic attacks on civilians perpetrated by the parties to the conflict, frequently on a tribal basis or as a result of (perceived) allegiance to a particular political faction. In addition to the Panel's reports of September and November 2016 (S/2016/793 and S/2016/963), at least four United Nations agencies and investigations have

[64] See the final report of the African Union Commission of Inquiry on South Sudan of 2014; A/HRC/34/63; OHCHR, "Atrocities will end in South Sudan only when perpetrators 'face consequences' — United Nations rights official", 17 February 2017, available from www.ohchr.org/EN/NewYork/Stories/Pages/AndrewGilmourInSouthSudan.aspx; OHCHR, "South Sudan: continued impunity following grave human rights violations in July 2016", 16 January 2017, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21085&LangID=E; and OHCHR and UNMISS, "A report on violations and abuses of international human rights law and violations of international humanitarian law in the context of the fighting in Juba, South Sudan, in July 2016", January 2017, available from www.ohchr.org/Documents/Countries/SS/ReportJuba16Jan2017.pdf.

[65] OHCHR, "United Nations human rights experts call for crimes in South Sudan conflict to be investigated by independent international body", 17 February 2017, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21194&LangID=E; Adama Dieng, Special Adviser on the Prevention of Genocide, statement to the Security Council, New York, 17 November 2016; and A/HRC/34/63, para. 96.

documented the significant increase in tribal violence during and since the events in Juba in July 2016.

65. During the violence in July, the joint UNMISS-OHCHR investigation found that SPLA had conducted house-to-house and hotel-to-hotel searches in at least six neighbourhoods of Juba, specifically targeting Nuer civilians.[66] On 25 October 2016, the United Nations High Commissioner for Human Rights warned that rising ethnic rhetoric, hate speech and incitement to violence against some ethnic groups in South Sudan was highly dangerous and could result in mass atrocities if not reined in by community and political leaders at the highest levels.[67]

66. In his special report on the review of the UNMISS mandate dated 10 November 2016, the Secretary-General noted that the conflict was taking on an increasingly ethnic dimension that raised reasonable concerns that "larger-scale atrocities could follow, including ethnic cleansing campaigns" (S/2016/951, para. 14). On 11 November, the Special Adviser on the Prevention of Genocide, Adama Dieng, following his visit to South Sudan, told the media in Juba there was a strong risk of violence escalating along ethnic lines, "with the potential for genocide". He further stated that, while there was not yet genocide or ethnic cleansing, "genocide is a process [and] it does not happen overnight — and because it is a process and one that takes time to prepare, it can be prevented".[68] In his subsequent briefing to the Security Council on 17 November, he stated that there were "a range of different perpetrators and victims, which makes an assessment of the risk of atrocity crimes in South Sudan more complex. But the warning signs are there" (see S/PV.7814). By 1 December, the Commission on Human Rights in South Sudan was speaking of "a steady process of ethnic cleansing being underway in several areas of South Sudan using starvation, gang rape and the burning of villages". The Commission also emphasized the possibility for genocide, given that conditions were in place for "a repeat of what happened in Rwanda".[69]

67. On 9 December 2016, IGAD issued a communiqué in which it condemned the alleged targeted killings and forced displacement of civilians, together with sexual violence, rising ethnic rhetoric and ethnically fuelled violence.[70] On 16 December, the Secretary-General wrote that "the risk of [these] mass atrocities, which includes recurring episodes of ethnic cleansing, escalating into possible genocide, is all too real".[71] On 29 January 2017, in a joint statement, the African Union, IGAD and the

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[66] Munuki, San Kizito, Gudele 1 and 2, Jebel and Bilpam. According to witnesses, SPLA soldiers would ask questions in Dinka or Mundari to ascertain the ethnicity of the person. See OHCHR and UNMISS, "A report on violations and abuses of international human rights law", paras. 43-47.

[67] OHCHR, "South Sudan: dangerous rise in ethnic hate speech must be reined in-Zeid", 25 October 2016. Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20757.

[68] Adama Dieng, Special Adviser on the Prevention of Genocide, near verbatim transcript of media briefing, Juba, 11 November 2016.

[69] OHCHR, "United Nations human rights experts says international community has an obligation to prevent ethnic cleansing in South Sudan", 1 December 2016. Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20970&LangID=E.

[70] See www.mfa.go.ke/wp-content/uploads/2016/12/Final-Communique%CC%81-of-the-29th-Extraordinary-IGAD-Summit.pdf, para. 4.

[71] He further writes: "President Salva Kiir has pursued an ethnically-based strategy to suppress dissent, muzzle the media, exclude significant South Sudanese actors in the peace process and unilaterally implement an agreement to reach elections. Fighting has now spread across the country. At the same time, actions by South Sudanese leaders including Riek Machar and other armed opposition actors are intensifying the conflict and manipulating ethnicity for political gain." Ban Ki-moon, "The world has betrayed South Sudan", Newsweek, 16 December 2016, available from www.newsweek.com/ban-ki-moon-south-sudan-people-betrayed-531932.

United Nations expressed their deep concern over the "risk of inter-communal violence escalating into mass atrocities".[72]

68. On 7 February 2017, in a statement, the Special Adviser on the Prevention of Genocide again warned that the risk of mass atrocities being committed remained ever-present.[73] On 10 February, less than three months after the previous press statement on the same topic,[74] the Security Council "condemned in the strongest terms" all attacks directed against civilians and expressed serious concern that there were again reports of killing of civilians, sexual and gender-based violence, destruction of homes, ethnic violence and looting of livestock and property.[75]

69. Following his visit to the country, on 17 February 2017 the Assistant Secretary-General for Human Rights stated that "this is a war that has been waged against the men, women and children of South Sudan". He added that, although it was his fourth visit to the country since 2011, he had not been "prepared for ... the clear pattern of systematic and harrowing human rights violations and abuses suffered by the population".[76]

70. On 3 March 2017, the King of the Shilluk, Kwongo Dak Padiet, released a statement in which he made the following assertion:

> The Dinka are, in the guise of the Government of the Republic of South Sudan, prosecuting the war against all other nationalities, implementing their ideology of Dinka ethnic supremacy ... The Chollo (Shilluk) people are in dire risk of cultural and physical extinction.

71. He also indicated that he had requested his lawyers to prepare cases against Kiir, Malong, the "Director of National Security" (presumably the Minister for National Security, Obuto Mamur Mete), the Director General of the National Security Service, Akol Koor, the Director of Military Intelligence, Major General Marial Nour, and the Chair and members of the Jieng Council of Elders for submission to the International Criminal Court.[77] On 10 March, Kiir's spokesperson, Ateny Wek Ateny, characterized the remarks as "illogical" and denied that Kiir's forces were targeting the Shilluk.[78]

B. Violations of the right to freedom of expression and opinion

72. In its reports of January and November 2016 (S/2016/70 and S/2016/963), the Panel described the numerous threats to South Sudanese civil society, the media and freedom of expression in general, resulting primarily from the policies and actions of SPLM/A in Government. These threats continue.

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[72] Available from www.un.org/sg/en/content/sg/note-correspondents/2017-01-29/joint-press-statement-au-igad-and-un-consultations-south.

[73] Available from www.un.org/sg/en/content/sg/note-correspondents/2017-02-07/statement-adama-dieng-united-nations-special-adviser.

[74] On 18 November, the Security Council issued a press statement in which it strongly condemned all instances of attacks against civilians, ethnically targeted killings, hate speech, and incitement to violence.

[75] Available from www.un.org/press/en/2017/sc12713.doc.htm.

[76] Available from https://unmiss.unmissions.org/press-statement-senior-un-human-rights-official-condemns-deplorable-rights-situation-south-sudan-and.

[77] Kwongo Dak Padiet Kuathker, King of the Shilluk, "My people are at risk of physical and cultural extinction", 4 March 2017. Note that many of the individuals whom he indicates are responsible for the crimes are consistent with the Panel's findings on command and control within SPLM/A in Government.

[78] "Presidency denies Shilluk King allegations of 'ethnic cleansing'", Radio Tamazuj, 12 March 2017. Available from https://radiotamazuj.org/en/article/presidency-denies-shilluk-king-allegations-ethnic-cleansing.

73. In a joint report of 16 January 2017, OHCHR and UNMISS assessed that media freedom had already been significantly restricted before the fighting of July 2016, but that the situation had worsened thereafter.[79] They found that dissent with regard to the leadership in Juba was largely not tolerated, that media houses were being threatened with closure and that some journalists had been temporarily detained for publishing articles deemed critical of SPLM/A in Government or for publishing information relating to the violence of July 2016. On 10 November 2016, the Association for Media Development in South Sudan said that journalists had had to contend with frequent death threats, arbitrary arrests, assaults, detention and killings under Kiir.[80] Some recent incidents are illustrative of this trend. For example, on 11 November 2016, Eye Radio was temporarily closed by the security services for rebroadcasting an interview with Machar that had aired on Al Jazeera.[81] On 6 December, an Associated Press reporter and the only full-time foreign correspondent then based in South Sudan, Justin Lynch, was arrested by National Security Service officers and deported "for his journalistic work".[82]

74. Furthermore, on 24 January 2017, an UNMISS Radio Miraya journalist was arrested and detained by SPLA soldiers at the John Garang mausoleum in Juba, where he had been covering the activities of a team of visiting Moroccan military doctors. The Panel received reports that the soldiers took him for interrogation within the mausoleum complex and subsequently to an SPLA military facility in Juba. They also confiscated his flash disk and mobile Internet connection device. He was released later that day. Three other journalists, from Eye Radio, were also arrested and detained by SPLA at the mausoleum on 24 January. The Panel received reports that the soldiers had threatened them and accused them of being critical of the leadership in Juba. The journalists were also released after being interrogated about their reasons for being at the mausoleum.[83]

75. The Panel has obtained documentary evidence of one case in which representatives of the leadership in Juba operating outside the country confiscated the passport of a South Sudanese citizen perceived to have dissenting views.[84] The Panel has received reports of other such cases as well.

C. Violations of the rights of the child

76. On 15 December 2016, the United Nations Children's Fund (UNICEF) reported that 17,000 children had been recruited to join the fighting in South Sudan since 2013. As the security situation deteriorated, UNICEF reported a corresponding increase in child recruitment. Some 1,300 children were documented to have been recruited in 2016 alone. In a marked departure from 2015 when 1,755 children were documented to have been released by armed forces or groups, only 177 children were released by armed forces or groups in 2016.[85]

77. According to UNICEF, more than half of the country's children are out of school — the highest proportion in the world. This puts them at higher risk of

[79] OHCHR and UNMISS, "A report on violations and abuses of international human rights law".

[80] Joseph Oduha, "South Sudan: journalists decry poor relations with Juba administration", All Africa, 10 November 2016. Available from http://allafrica.com/stories/201611100623.html.

[81] See www.eyeradio.org/official-statement-eye-radio-shuts/.

[82] Panel exchange with Justin Lynch; Associated Press, "Associated Press reporter deported from South Sudan", 6 December 2016, available from https://apnews.com/1b694ccdafdb464884ee536a1e583378.

[83] Confidential United Nations report, January 2017.

[84] Confidential documentation on file with the Panel.

[85] UNICEF, "Rise in child recruitment as conflict in South Sudan enters fourth year", 15 December 2016. Available from www.unicef.org/media/media_94185.html.

recruitment and, with traditional social structures damaged, makes them increasingly vulnerable to violence, sexual abuse, child marriage and child labour.[86]

78. The education cluster of the Assessment Capacities Project, a non-governmental organization, found that 25 per cent of schools in South Sudan that had been open at any point since 2013 were non-functional as at November 2016. Insecurity was found to be the reason for closures in most cases, followed by the delayed payment or non-payment of teachers' salaries. At least 31 per cent of schools had suffered one or more attacks by armed groups or forces since December 2013 and, on average, functional schools had lost more than six weeks of education in 2016 (4 weeks as a result of a late start and 2.3 weeks owing to interruptions during the school year).[87]

V. Obstruction of humanitarian and peacekeeping missions

A. Obstruction of humanitarian assistance and attacks against humanitarian workers

79. Since the war began in December 2013, at least 72 aid workers have been killed, 29 since the Panel's report of January 2016. South Sudan remains the deadliest country in the world for humanitarians, with the majority of those killed being South Sudanese nationals.[88]

80. The Panel has analysed the overall trends in obstruction of humanitarian assistance by comparing statistics of reported "access incidents", a term that includes violence against humanitarians.[89] In 2016, humanitarians reported 908 such incidents, compared with 779 in 2014. In 2015, 56.8 per cent of those incidents involved violence against personnel and assets, with 28 humanitarians and 1 United Nations agency-contracted driver killed. In 2016, the percentage of incidents involving violence had risen to 69, with 24 humanitarians killed.

81. The state with the highest number of access incidents has shifted from Unity (226 in 2015, compared with 116 in 2016) to Central Equatoria (205 in 2015, compared with 316 in 2016).[90] Section B provides a detailed description of humanitarian access in Unity, where famine has been declared. There were 64 incidents reported there in January 2017 and 70 in February, with more than half

[86] UNICEF, "Reaching children in South Sudan: the situation of children in the world's youngest country". Available from www.unicef.org/infobycountry/southsudan_74635.html.

[87] UNICEF, "Education cluster assessment: South Sudan" (November 2016). Available from www.acaps.org/sites/acaps/files/key-documents/files/education_cluster_assessment_south_sudan_nov_2016.pdf

[88] To put these numbers in context, in 2015, for the first time, South Sudan overtook Afghanistan as the country with the highest number of attacks on civilian aid operations. See "Aid worker security report 2016: figures at a glance". Available from https://aidworkersecurity.org/sites/default/files/HO_AidWorkerSecPreview_1015_G.PDF_.pdf.

[89] It should be noted that these reports represent only a fraction of the actual incidents occurring because humanitarians choose not to report access-related incidents owing to concerns for the safety of their beneficiaries and staff.

[90] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", January-December 2015 and January-December 2016. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/access_snapshot_jan-dec2015.pdf and http://reliefweb.int/sites/reliefweb.int/files/resources/170125_january_december_2016_accesssnapshot.pdf, respectively.

involving violence against humanitarian personnel or assets. At least three humanitarians were killed in January and another two in February.[91]

82. The number of reported access incidents spiked significantly in the second half of 2016, following the violence in Juba in July. The Office for the Coordination of Humanitarian Affairs reported an increase from an average of 63.5 incidents per month between January and June to an average of 88 per month between July and December. Although Central Equatoria experienced more than one third of the overall number of incidents reported, Eastern Equatoria saw the largest percentage increase — from 10 incidents in 2015 to 42 in 2016.[92]

83. In addition to violent attacks against humanitarians, the parties to the conflict employ tactics to obstruct humanitarian access to suit their own political, military and economic agendas.[93] The tactics include deliberately creating an environment of restricted physical access, including by intimidating, harassing and detaining humanitarian staff; looting humanitarian supplies; restricting movement by denying access to areas with populations suspected of supporting other warring parties; and fostering a climate of general insecurity that renders the delivery of assistance impossible. The belligerents have also applied indirect impediments by devising an increasingly complex bureaucratic system,[94] resulting in arbitrary visa denials, interference in programme implementation[95] and illegal taxation, among other problems. Regulation of non-governmental organizations is also used by the leadership to maintain control and oversight over the provision of aid to opposition areas.[96]

84. The leadership in Juba has become increasingly intolerant of humanitarian organizations that highlight political or security issues, including those advocating in support of an arms embargo, calling attention to human rights abuses or

[91] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", January 2017 and February 2017. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/170216_access_snapshot_january_2017.pdf and www.humanitarianresponse.info/system/files/documents/files/170303_access_snapshot_february_2017_0.pdf, respectively.

[92] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", January-December 2016. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/170125_january_december_2016_accesssnapshot.pdf.

[93] According to the Office for the Coordination of Humanitarian Affairs, humanitarian access can be defined as the humanitarian actors' ability to reach populations in need, as well as an affected population's ability to gain access to assistance. In situations of armed conflict, the responsibility for the well-being of the civilian population lies with all the parties to the conflict. If they are unable or unwilling to meet the basic needs of the affected population within their control, they are obliged to allow and facilitate the impartial provision of assistance. See "Office for the Coordination of Humanitarian Affairs on message: humanitarian access", April 2010, available from https://docs.unocha.org/sites/dms/Documents/OOM_HumAccess_English.pdf. In addition to the deliberate tactics to obstruct access, South Sudan also experiences access constraints that are largely outside the parties' control, including physical problems, such as a lack of roads, and climatic conditions, such as flooding during the rainy season.

[94] In its interim report of November 2016 (S/2016/963), the Panel described the Non-Governmental Organizations Act and the Relief and Rehabilitation Commission Act, adopted in February 2016, in detail.

[95] For example, in August 2016, new bureaucratic requirements were introduced for the transportation of medical supplies, and the passage of humanitarian convoys out of Juba, which resulted in delays in the dispatch of vital humanitarian assistance. See Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot, August 2016. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/ss_20160916_augustaccesssnapshot_final.pdf.

[96] Lindsay Hamsik, "A thousand papercuts: the impact of NGO regulation in South Sudan", *Humanitarian Exchange*, No. 68 (January 2017). Available from http://odihpn.org/wp-content/uploads/2017/01/HE-68-web.pdf.

describing impediments to humanitarian access.[97] Furthermore, as the attack on the Terrain hotel by SPLA soldiers in July 2016 (among other less-publicized incidents) demonstrated, international aid workers are increasingly alleged to be agents of "regime change".[98] The recent warnings by United Nations officials of the potential for genocide have prompted more such accusations. The impediments to humanitarian assistance also play out against a backdrop of an ethnically charged conflict that has resulted in deteriorating security conditions for national staff belonging to particular ethnicities,[99] increased banditry owing to a deepening humanitarian and economic crisis and increasingly complex negotiations on humanitarian access, with a vast proliferation of actors on the ground.[100]

85. In recent months, SPLM/A in Government, including Kiir, has made several public commitments to allowing unhindered humanitarian assistance. On 15 October 2016, more than one month after the leadership in Juba agreed in a joint communiqué with the Security Council that it would immediately improve humanitarian access, Kiir set up a high-level oversight committee headed by the Minister of Cabinet Affairs, Martin Elia Lomuro.[101] As at the time of submission of the present report, the committee had met only once, on 26 October 2016, and no official minutes had been made public. Lomuro has since told the media that "most of the [humanitarian] agencies are here to spy on the government".[102]

86. On 17 November 2016, during her briefing to the Security Council, the then Special Representative of the Secretary-General and Head of UNMISS, Ellen Margrethe Løj, noted that recommendations had been made at the meeting of 26 October with the aim of improving humanitarian access but that "we have yet to see if they will translate into tangible improvement for the humanitarian personnel on the ground" (see S/PV.7814). Ultimately, humanitarians reported 100 access

[97] Confidential interviews with humanitarian agencies in 2015, 2016 and 2017 in South Sudan, Nairobi, Kampala and New York.

[98] See the Panel's report of September 2016 (S/2016/793, para. 38) for a description of the attack on the Terrain hotel. Humanitarians are bound by the humanitarian principle of non-association with a political agenda. Confidential interviews with humanitarian agencies in 2015, 2016 and 2017 in South Sudan, Nairobi, Kampala and New York. Confirmed in paragraph 26 of the report of the Secretary-General on South Sudan (covering the period from 12 August to 25 October 2016) (S/2016/950). Regarding the so-called "agenda for regime change," see also the statement by the Troika in January 2017, refuting a regime change story in the *Juba Monitor*.

[99] According to the Secretary-General (see S/2016/950), increasing ethnically driven rhetoric had a significant impact on humanitarian operations in October 2016, with more than 90 staff relocated in Western Bahr el-Ghazal for safety reasons, causing humanitarian assistance to the area to be scaled down. See also the Panel's interim report of November 2016 (S/2016/963) on instances of incitement to violence.

[100] The proliferation of actors on the ground is due to the increase in state authorities (with the number of states rising from 10 to 32), groups not feeling represented by the current political process as laid out in the Agreement and the widening geographical scope of the conflict (8 states are now affected by conflict rather than the original 3). See also the statement to the Security Council on South Sudan by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, New York, 19 December 2016.

[101] Republican Order No. 23/2016. The committee is headed by the Minister of Cabinet Affairs, Martin Elia Lomuro, and comprises nine members, including the former Minister of Humanitarian Affairs and current Minister of Gender, Child and Social Welfare, Awut Deng Acuil; the Minister for Humanitarian Affairs, Hussein Mar Nyuot; the Chair of the South Sudan Relief and Rehabilitation Commission, Lokulenge Lole Timayo; the Deputy Inspector General of Police, Lieutenant General James Biel Ruot; and the Director General of the Internal Security Bureau, Akol Koor. UNMISS and the Office for the Coordination of Humanitarian Affairs are represented.

[102] Justin Lynch, "Famine-hit South Sudan sharply raises foreigners' work fees", *Associated Press*, 4 March 2017.

incidents in November — the highest number in 2016[103] and indeed in any one month since June 2015.[104] SPLM/A in Government has also denied aid workers access to areas in which tens of thousands of people required assistance and protection but who were perceived as sympathetic to the opposition, such as outside of Yei, Central Equatoria, and Wau, Western Bahr el-Ghazal. Forty aid workers had to be relocated in November from Jonglei, Unity, Warrap and Western Equatoria owing to insecurity.[105]

87. This record level of reported incidents spurred the United Nations Resident and Humanitarian Coordinator in South Sudan to issue a statement on 30 November 2016 to express deep concern about the bureaucratic impediments and access constraints that had a negative impact on humanitarians' ability to assist people in need.[106] Only two weeks later, on 14 December 2016, the humanitarian country team echoed that grave concern, as a direct reaction to the expulsion by SPLM/A in Government of four international humanitarian staff in November and December and the closure of one of the largest South Sudanese national non-governmental organizations.[107]

88. The next day, at a meeting with the Council of Ministers, SPLM/A in Government representatives told the visiting Chair of the Committee, the representatives of France and the United Kingdom of Great Britain and Northern Ireland on the Committee and members of the Panel that, in pursuit of "unhindered and unrestricted humanitarian access", they had "directed that all the agreed modalities be implemented without delay and without hindrance". In December 2016, however, more than 116 aid workers were ultimately relocated from Central Equatoria, Upper Nile and Unity owing to active hostilities and violence against humanitarians.[108]

89. On 21 February 2017, Kiir reiterated his commitment to "unimpeded humanitarian access" following the declaration of famine in two counties (see sect. B). On 2 March, however, the Ministry of Labour, Public Service and Human Resource Development issued a directive to raise the fee for foreign work permits,

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[103] In November 2016, most of the reported incidents occurred in Central Equatoria (40), with 66 per cent of incidents pertaining to violence against humanitarian staff and assets. See Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", November 2016 and January-December 2016, available from http://reliefweb.int/report/south-sudan/south-sudan-humanitarian-access-situation-snapshot-november-2016 and http://reliefweb.int/report/south-sudan/south-sudan-humanitarian-access-situation-snapshot-jan-dec-2016, respectively.

[104] As explained in section B, June 2015 coincided with the SPLM/A in Government offensive into southern Unity.

[105] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: South Sudan, No. 19, 6 December 2016. Available from http://reliefweb.int/report/south-sudan/south-sudan-humanitarian-bulletin-issue-19-6-december-2016.

[106] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian coordinator deeply concerned by bureaucratic impediments and access constraints", press release, 30 November 2016. Available from http://reliefweb.int/report/south-sudan/humanitarian-coordinator-deeply-concerned-bureaucratic-impediments-and-access.

[107] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian country team statement on the deteriorating operating environment", press release, 14 December 2016. Available from http://reliefweb.int/report/south-sudan/south-sudan-humanitarian-country-team-statement-deteriorating-operating.

[108] A total of 85 aid workers relocated owing to fighting between refugees and the host community in the Doro camp, Maban County, Upper Nile; 28 relocated from Ganyiel, Panyijiar County, Unity, owing to increasing tensions; and others relocated from the Tindalo area to the town of Terekeka, Central Equatoria, owing to armed clashes. In total, 77 access incidents were reported for the month. See Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", December 2016 and November 2016, available from http://reliefweb.int/sites/reliefweb.int/files/resources/170125_december2016_accesssnapshot.pdf and http://reliefweb.int/sites/reliefweb.int/files/resources/ss_161207_november_accesssnapshot_0.pdf, respectively.

which would affect humanitarians, from $100 to $10,000.[109] Commenting to the press on 4 March, the Minister of Information and Broadcasting, Michael Makuei, characterized the increase as a means of raising revenue.[110] Subsequently, in a press conference on 9 March, he pledged that the government would expel humanitarian organizations and United Nations agencies that failed to pay permit fees or taxes.[111]

Expulsion of Norwegian Refugee Council staff: a new tactic?

On 9 December 2016, the same day that Malong told the assembled media at a press conference in Juba that his forces respected and protected non-governmental organizations, the country director of the Norwegian Refugee Council was expelled from South Sudan.[a] Less than a week later, a second senior staff member, the area manager in Alek (Warrap), was ordered to leave. The Council states that it has received no formal explanation of the charges against the two.[b] In November 2016, at least two other international non-governmental organization staff were ordered to leave the country by SPLM/A in Government.[c] Compared with a few isolated cases spread out throughout 2015 and 2016, the leadership in Juba appears to have accelerated its use of this tactic by ordering at least four individuals to leave in the space of four weeks.

While the expulsion of humanitarians from South Sudan is nothing new, expulsion without a specific explanation is a more recent development. The government expelled the former United Nations Resident and Humanitarian Coordinator, Toby Lanzer, in May 2015, for example, supposedly for posting a negative comment on social media about the economy. The Panel has knowledge of at least one other expulsion of a humanitarian in 2016.[d] The Panel has also learned of multiple cases of humanitarians being threatened with expulsion unless they toned down their advocacy for a United Nations arms embargo or ceased highlighting human rights abuses.

In the case of the two staff members of the Norwegian Refugee Council, however, the organization and the individuals have not been provided with clear grounds for expulsion. Speculation as to potential motivations have ranged from (evidently unfounded) allegations that Norway, as a member of the Troika, was propagating a so-called "agenda for regime change" to human resources conflicts involving local staff.[112] This seemingly arbitrary approach has caused great unease in the humanitarian community.

[a] Norwegian Refugee Council, "NRC's Country Director expelled from South Sudan", 9 December 2016. Available from www.nrc.no/news/2016/des/nrcs-country-director-expelled-from-south-sudan/.

[b] Norwegian Refugee Council, "South Sudan orders second aid worker to leave", 14 December 2016. Available from www.nrc.no/news/2016/des/south-sudan-expelled/.

[c] See press briefing by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator to the Security Council on 19 December 2016. Available from http://reliefweb.int/report/south-sudan/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-9. There is a strong possibility that more humanitarians have been ordered to leave the country in the second half of 2016, given that, during its investigations, the Panel has found that organizations and individuals have chosen to stay silent out of considerations for the security of their staff and beneficiaries and to protect their activities.

[d] The Panel has chosen not to disclose identities for security reasons. Evidence of this expulsion is on file with the Panel.

[109] A copy of the directive is on file with the Secretariat.

[110] Justin Lynch, "Famine-hit South Sudan sharply raises foreigners' work fees", Associated Press, 4 March 2017.

[111] UNMISS report, 10 March 2017. Note that, pursuant to the status-of-forces agreement, United Nations agencies are exempt from fees and taxes.

[112] Confidential interviews with multiple humanitarian, United Nations and diplomatic sources in December 2016 and January and February 2017.

B. Declaration of famine

90. On 20 February 2017, the Integrated Food Security Phase Classification South Sudan Technical Working Group,[113] on the basis of an assessment process that included representatives of the leadership in Juba, declared famine in Leer and Mayendit counties in Unity. In addition, populations in Koch County were deemed at an elevated risk of famine, while it was determined that Panyijiar County could avoid famine only if humanitarian assistance were delivered as planned up to and including July 2017.[114] In real terms, this means that, at the time of submission of the present report, 100,000 people were dying of starvation and a further 1 million were near starvation. A declaration of famine indicates, among other things, a death rate twice that of normal mortality, meaning that twice the number of South Sudanese have already died in Leer and Mayendit counties than would otherwise have been the case. In addition, in Northern Bahr el-Ghazal, as many as 870,000 people are facing acute food insecurity.[115] Annex III provides maps depicting the severe deterioration in food security in South Sudan from October 2013 to the present.

91. Between February and April 2017, about 4.9 million people — more than 40 per cent of the total population — are estimated to be severely food insecure. The total number nationwide is expected to rise to 5.5 million at the height of the lean season in July if nothing is done to curb the severity and breadth of the food crisis. The key areas being monitored by humanitarian organizations are central and southern greater Unity, greater Bahr el-Ghazal, drought-affected greater Pibor and the counties of Fashoda, Kajo Kaji, Kapoeta, Lainya, Malakal, Manyo, Morobo, Nasir and Yei in greater Equatoria.[116]

92. The upsurge in violence since July 2016, predominantly a result of military operations by SPLM/A in Government and affiliated forces, as described in section IV, has devastated food production, including in previously stable areas such as Equatoria, traditionally an area of high food production. According to the South Sudan Technical Working Group, the most food-insecure areas show high levels of insecurity, displacement, loss of livelihoods, market failure and constrained humanitarian access for assistance delivery and monitoring.[117] The Food and Agriculture Organization of the United Nations (FAO), UNICEF and the World Food Programme (WFP) have confirmed that three years of conflict have severely undermined crop production and rural livelihoods and have exhausted households' coping mechanisms.[118] As described in section III.B, soaring inflation — the average monthly inflation rate in 2016 was 444.1 per cent[119] — and market failure have also hit areas that traditionally rely on markets to meet food needs, such as urban centres where the populations must now cope with massive price rises

[113] See www.ipcinfo.org/.

[114] See the key findings for January-July 2017 with regard to South Sudan, available from www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/1_IPC_South_Sudan_Key%20Messages_Feb2017.pdf; and Global Information and Early Warning System, "GIEWS country brief: South Sudan", available from http://reliefweb.int/sites/reliefweb.int/files/resources/SSD21-February-2017.pdf.

[115] WFP, situation report, No. 165, 27 February 2017. Available from http://reliefweb.int/report/south-sudan/wfp-south-sudan-situation-report-165-27-february-2017.

[116] FAO, "Famine hits parts of South Sudan", 20 February 2017. Available from www.fao.org/news/story/en/item/471251/icode/.

[117] See the key findings for January-July 2017 with regard to South Sudan, available from www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/1_IPC_South_Sudan_Key%20Messages_Feb2017.pdf.

[118] FAO, "Famine hits parts of South Sudan", 20 February 2017. Available from www.fao.org/news/story/en/item/471251/icode/.

[119] See www.tradingeconomics.com/south-sudan/inflation-cpi.

affecting basic foodstuffs.[120] In Juba, for example, the Office for the Coordination of Humanitarian Affairs determined in December 2016 that 80 per cent of the population was resorting to crisis or emergency food coping strategies.[121]

What is famine?

A formal famine declaration means that people have already died of hunger.[a] Famine begins slowly and is a process. It is not an event that occurs overnight, but rather a slow-moving crisis, which also makes it preventable.[b]

Under the Integrated Food Security Phase Classification, acute food insecurity is described at the household and area levels. At the household level, "catastrophe" (phase V) is described as follows: "Even with any humanitarian assistance, household group has an extreme lack of food and/or other basic needs even with full employment of coping strategies." "Famine" (phase V) applies to the area level and is declared when more than 20 per cent of households are classified as being in "catastrophe", the crude death rate exceeds 2 per 10,000 people per day and the prevalence of global acute malnutrition exceeds 30 per cent.[c]

In other words, three key conditions must be met. First, at least 20 per cent of households must be facing extreme food shortages with limited ability to cope, which means that 1 in 5 people do not have enough to eat on an ongoing basis. Second, death rates must exceed 2 per 10,000 people per day, or twice as many people dying daily than normal. Third, the prevalence of serious malnutrition must exceed 30 per cent, i.e. in practice 1 in 3 people — usually children — are exhibiting the life-threatening symptoms of the most acute clinical manifestation of malnutrition, severe acute malnutrition. What this means in reality is that the body is collapsing — "you spiral slowly into death".[d]

The results of any update to the Integrated Food Security Phase Classification are validated by the South Sudan Technical Working Group and officially endorsed by the National Bureau of Statistics of South Sudan.

[a] FAO, "Famine hits parts of South Sudan", 20 February 2017. Available from www.fao.org/news/story/en/item/471251/icode/.

[b] "Famine: what does it really mean and how do aid workers treat it?", *Guardian*, 12 February 2017. Available from www.theguardian.com/global-development-professionals-network/2017/feb/12/famine-threat-humanity-world-food-organisation?CMP=ema-1702&CMP=.

[c] See www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/UPDATE_IPC_SouthSudan_AcuteAnalysis_Dec2015.pdf.

[d] See www.ipcinfo.org; Norwegian Refugee Council, "When does hunger become famine?", 21 February 2017, available from www.nrc.no/news/2017/february/when-does-hunger-become-famine/; and "Famine: what does it really mean and how do aid workers treat it?", *Guardian*, 12 February 2017, available from www.theguardian.com/global-development-professionals-network/2017/feb/12/famine-threat-humanity-world-food-organisation?CMP=ema-1702&CMP=.

C. Famine in Unity

93. The bulk of the evidence suggests that the famine in Unity has resulted from the protracted conflict and, in particular, the cumulative toll of repeated military operations undertaken by the government in southern Unity beginning in 2014. Denial of humanitarian access, primarily by SPLM/A in Government, as described

[120] FAO, "Famine hits parts of South Sudan", 20 February 2017. Available from www.fao.org/news/story/en/item/471251/icode/.

[121] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: South Sudan, No. 19, 6 December 2016. Available from http://reliefweb.int/report/south-sudan/south-sudan-humanitarian-bulletin-issue-19-6-december-2016.

above, and the population displacement brought about by the war have also significantly contributed to the famine, which had been predicted for two years.[122]

Cause: human-caused conflict

94. The South Sudan Technical Working Group cited conflict and insecurity as the main driver of acute food insecurity, a point corroborated on 22 February 2017 by the Special Representative of the Secretary-General and Head of UNMISS, David Shearer, when he characterized the famine as resulting from the displacement of populations who had abandoned their livelihoods as they fled for their lives, in combination with a deepening economic crisis. He further stated that, in contrast to other parts of East Africa, climate and drought were largely not responsible for the widespread food shortages in South Sudan.[123] The Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator told the Security Council on 10 March 2017 that "the famine in South Sudan [was] man-made" and that "parties to the conflict are parties to the famine — as are those not intervening to make the violence stop".[124]

95. The food security situation in Unity began to change dramatically in April 2015 when the leadership in Juba launched a massive military operation, perpetrating systematic brutal violence targeting civilians in southern Unity, especially in the counties currently affected by famine, as described in detail in the Panel's report of January 2016 (S/2016/70). At the beginning of the offensive, in June 2015, 550,000 people were estimated to be food insecure across Unity, with Panyijiar, Mayendit, Koch and Guit counties considered to be in phase IV ("emergency").[125] On 22 October 2015, the South Sudan Technical Working Group warned that, for the first time since the war began, 30,000 people in Leer, Guit, Koch and Mayendit counties were considered to be in phase V ("catastrophe"), i.e. at risk of famine, even though that timing coincided with the beginning of the harvest, when the food security situation would normally be expected to improve. It further stated that famine had not been declared because it lacked accurate mortality data to conclusively make such a declaration.[126]

96. As described in the Panel's report of January 2016, an Integrated Food Security Phase Classification team was able to make a rare verification mission to Guit, Koch and Mayendit counties in November 2015. The team found a population mainly hiding in the bush or on islands in the swamp, living off water lilies and fish,

[122] FAO, International Fund for Agricultural Development and WFP, *The State of Food Insecurity in the World: Strengthening the Enabling Environment for Food Security and Nutrition* (Rome, 2014). The government undertook a first counter-insurgency offensive throughout 2014; see also Office of the Deputy Humanitarian Coordinator for South Sudan, "Crisis impacts on households in Unity state, South Sudan, 2014-2015: initial results of a survey", January 2016, available from http://reliefweb.int/report/south-sudan/crisis-impacts-households-unity-state-south-sudan-2014-2015-initial-results.

[123] The possible exception is the drought affecting the region around Kapoeta and greater Pibor in the south-east of the country. See UNMISS, press briefing, 22 February 2017, available from https://unmiss.unmissions.org/unmiss-srsg-david-shearer-press-briefing-near-verbatim-transcription-22-february-2017. WFP has confirmed that the famine is human-caused, stemming from the avoidable, protracted conflict. See also "Famine declared in part of South Sudan's Unity state", Al Jazeera, 21 February 2017, available from www.aljazeera.com/news/2017/02/famine-declared-part-south-sudan-unity-state-170220081516802.html.

[124] See http://reliefweb.int/report/yemen/usgerc-stephen-o-brien-statement-security-council-missions-yemen-south-sudan-somalia.

[125] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", June 2015. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/South_Sudan_Humanitarian_Snapshot_05Jun2015.pdf.

[126] See www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/1_IPC%20South%20Sudan%20-%20September%202015%20-FINAL.pdf.

given that their livestock had been looted, crops destroyed and markets closed. The team estimated that 40,000 people were at risk of famine and that "the situation [was] likely to deteriorate into famine in the absence of urgent and immediate humanitarian access".[127] In December 2015, the South Sudan Technical Working Group also noted that Unity was then the state most affected by food insecurity owing to continued fighting causing widespread displacement and disruption of livelihoods. Those warnings notwithstanding, the Panel concluded in January 2016 that SPLA and its allied militias had continued to implement a "scorched earth" strategy in Unity, with massive forced population displacements, the systematic destruction of livelihoods and water wells, food crops and the raiding of cattle.[128]

Cause: denial of humanitarian access

97. In its assessment of the period from January to July 2017, the South Sudan Technical Working Group stated that humanitarian access remained a major challenge in implementing life-saving interventions in the worst-affected areas of South Sudan. As the Panel has documented in several previous reports, however, denial of humanitarian access to selected populations has been a tactic employed by all parties to the conflict since at least the establishment of the Panel in May 2015 and possibly before.

98. In January 2014, 24 access incidents were reported by humanitarian agencies across Unity.[129] More than a year later, in May 2015, the number of incidents had jumped to 67, resulting in Unity having the highest number of incident reports in the country, followed by Upper Nile with 36. Two aid workers were killed during fighting in southern Unity in the same month. Of the incidents, 42 per cent were attributed to the state security services, 31 per cent to "others" and 24 per cent to "unknown".[130] The global protection cluster estimated that access restrictions had prevented the delivery of assistance to more than 300,000 people in Unity in May and June 2015.[131] According to the United Nations Resident and Humanitarian Coordinator, from the beginning of April to the middle of June 2015, close to 12,000 tons of nutrition supplies were lost or looted, medical supplies worth $467,000 were burned and operational assets, including 10 warehouses, estimated to be worth $753,000, were destroyed or looted.[132] The period from April to June 2015

[127] Integrated Food Security Phase Classification, "Central and southern Unity verification mission report: final report" (20 November 2015). For information on the situation only one month before, however, see FAO, "UN calls for immediate access to conflict-affected areas to prevent catastrophe in South Sudan", 22 October 2015, available from www.fao.org/news/story/en/item/338209/.

[128] For Leer County, see Amnesty International, "We are still running: war crimes in Leer, South Sudan" (London, 2016). Available from www.amnesty.org/en/documents/afr65/4486/2016/en/.

[129] Office for the Coordination of Humanitarian Affairs, "South Sudan crisis: humanitarian snapshot", 24 January 2014. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/Hum_Snapshot_24_Jan_2014.pdf.

[130] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", May 2015. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/access_snapshot_18july2015.pdf.

[131] Protection cluster, "Protection trends South Sudan", No. 5 (July 2015). Available from http://cpwg.net/wp-content/uploads/sites/2/2015/08/Protection-Trends-Paper-No-5-July-2015.pdf.

[132] Office for the Coordination of Humanitarian Affairs, "Review of the IASC level 3 response by the South Sudan HCT: recommendation and analysis", August 2015. Available from https://interagencystandingcommittee.org/system/files/2._ss_160115_south_sudan_l3_response_hct_review_paper_final.pdf.

coincided with the height of the brutal "scorched earth" offensive throughout Unity that was planned and executed by the leadership in Juba.[133]

99. While in June 2015 the number of reported access incidents fell to 26 in Unity,[134] impediments to access continued. In October 2015, three humanitarian workers were killed in Unity, with 16 incidents overall reported for that month.[135] They included the looting of Médecins sans frontières and International Committee of the Red Cross compounds in Leer County, which were both looted twice, on 2 and 3 October, forcing both organizations to suspend medical activities and evacuate from the county (see S/2016/70, footnote 174). In December 2015, following a lengthy period of sustained disruption, some humanitarian operations were able to resume, aided in part by the establishment of an UNMISS temporary operating base in the county.[136] Humanitarians reported 226 access incidents across Unity in 2015 and 116 in 2016.

100. Between November 2015 and January 2017, the number of reported incidents remained fairly consistent.[137] Nevertheless, aid workers continued to experience disruptions to their work, either through denial of access, evacuation owing to insecurity or relocation ordered by the leadership in Juba.[138] In September 2016, 62 aid workers were relocated from volatile areas in Unity, which disrupted life-saving services for more than 65,000 people in need, and 1 aid worker was killed in Leer County.[139] In December 2016, 28 aid workers were relocated from Ganyiel, Panyijiar County, owing to increasing tensions.[140] Furthermore, a confidential source told the Panel that the International Committee of the Red Cross had evacuated its personnel from Leer County that month for the fifth time since the beginning of the war owing to insecurity, leaving the local population and internally displaced persons without essential medical care. In January 2017, some 26 aid workers were relocated from Panyijiar County following a directive from the security services to cease humanitarian operations in the area. Food aid drops were postponed and passenger flights to Bentiu cancelled owing to a lack of flight safety

[133] The Office for the Coordination of Humanitarian Affairs at the time pointed out that the increase in reports, although partly a result of increased reporting through access surveys, was linked to an escalation in military offensives in Unity and Upper Nile, which severely impeded humanitarian operations and organizations in reaching affected people. See "South Sudan: humanitarian access situation snapshot", May 2015, available from http://reliefweb.int/sites/reliefweb.int/files/resources/access_snapshot_18july2015.pdf.

[134] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", June 2015, available from http://reliefweb.int/sites/reliefweb.int/files/resources/access_snapshot_21august2015.pdf.

[135] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", October 2015, available from http://reliefweb.int/sites/reliefweb.int/files/resources/access_snapshot_20151113.pdf.

[136] Office of the Deputy Humanitarian Coordinator for South Sudan, "Crisis impacts on households in Unity state, South Sudan, 2014-2015: initial results of a survey", January 2016. Available from http://reliefweb.int/report/south-sudan/crisis-impacts-households-unity-state-south-sudan-2014-2015-initial-results.

[137] The number fluctuated between 5 and 13, except for peaks in the middle and at the end of the year: 17 in July, 15 in December and 18 in January 2017. See the humanitarian access situation snapshots for the relevant months at http://reliefweb.int/updates?search=%28+primary_country%3A%22South+Sudan%22+%29+AND+%28+source%3A%22UN+Office+for+the+Coordination+of+Humanitarian+Affairs%22+%29+AND+%28+format%3A%22Infographic%22+%29.

[138] A total of 38 from Jazeera and Nhialdiu and 24 from Buaw and Koch.

[139] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", September 2016. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/september_access_snapshot_20161011.pdf.

[140] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", December 2016. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/170125_december2016_accesssnapshot.pdf.

assurances from the security services on 30 and 31 January 2017. A driver died in an armed ambush on a convoy carrying aid supplies near Bentiu.[141]

101. Notwithstanding the declaration of famine on 20 February 2017 and the global attention that it has garnered, 28 humanitarians were forced to relocate from Mayendit County — one of the two counties hit by the famine — owing to insecurity on 25 and 26 February.[142] In response, the United Nations Resident and Humanitarian Coordinator publicly appealed to all parties to ensure immediate, safe and unhindered access across the country "to avert further catastrophe".[143] The Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator told the Security Council on 10 March that "humanitarians are delivering ... However, active hostilities, access denials and bureaucratic impediments continue to curtail their efforts to reach people who desperately need help. Aid workers have been killed; humanitarian compounds and supplies have been attacked, looted, and occupied by armed actors".[144] The persistent interruption of humanitarian access to Unity in the years preceding the famine has significantly exacerbated food shortages.

Cause: forced population displacement

102. When populations are displaced, whether as a result of insecurity or of forced population movements, it compromises their ability to engage in their usual livelihoods or, alternatively, to gain access to humanitarian assistance. As at 7 January 2015, more than 345,000 people had been displaced in Unity,[145] with that number jumping to almost 580,000 by 10 September 2015.[146] There were 43,332 displaced people seeing refuge in the Bentiu site for the protection of civilians on 16 January 2015,[147] a number that had risen to 111,771 on 17 September 2015.[148] FAO then reported that displaced populations in southern Unity remained cut off from humanitarian assistance and were in hiding in swamps and forests. Given their precarious living conditions, FAO warned of a "severely declining food security situation with isolated cases of starvation reported".[149] By the end of 2015, the

[141] Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot", January 2017. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/170216_access_snapshot_january_2017.pdf.

[142] As at 10 March, they had not been able to return. The Office for the Coordination of Humanitarian Affairs has reported that the aid workers initially relocated on 26 February, after they were advised to leave by local authorities following skirmishes north of the town of Mayendit. Intensive negotiations were undertaken for the workers to return, but renewed fighting was reported on the outskirts of the town on 1 March and parties to the conflict have informed humanitarians that the security situation is not conducive for their return. See Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: South Sudan, No. 4, 10 March 2017, available from http://reliefweb.int/sites/reliefweb.int/files/resources/170310_OCHA_SouthSudan_Humanitarian_Bulletin_4.pdf.

[143] Office for the Coordination of Humanitarian Affairs, "Humanitarian coordinator calls for urgent access as needs surge in South Sudan: insecurity forces relocation of 28 aid workers from famine-hit Mayendit", 28 February 2017. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/SS_170228_Press%20Release_Humanitarian%20Access_FINAL.pdf.

[144] Available from http://reliefweb.int/report/yemen/usgerc-stephen-o-brien-statement-security-council-missions-yemen-south-sudan-somalia.

[145] Office for the Coordination of Humanitarian Affairs, "South Sudan crisis: humanitarian snapshot", 7 January 2015. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/South_Sudan_Humanitarian_Snapshot_31Dec2014_01.pdf.

[146] Office for the Coordination of Humanitarian Affairs, "South Sudan crisis: humanitarian snapshot", 10 September 2015. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/south_sudan_humanitarian_snapshot_10sep2015.pdf.

[147] See http://reliefweb.int/sites/reliefweb.int/files/resources/UNMISS%20PoC%20Update%20No.%2057.pdf.

[148] See http://reliefweb.int/sites/reliefweb.int/files/resources/15-9-%20Update%20No.%2092.pdf.

[149] See www.fao.org/fileadmin/user_upload/emergencies/docs/FAO_South%20Sudan_Situation-

Bentiu site had become by far the largest such site in South Sudan — and the largest population centre in Unity — with a population nearing 140,000, accounting for more than two thirds of all 220,000 internally displaced persons seeking shelter in protection sites nationwide.[150]

103. Displacement remained a significant problem in Unity in 2016. In July, as the conflict escalated in the Equatorias, thousands of civilians were also displaced by clashes in southern Unity, including from Leer and Mayendit counties. In September, FAO renewed its warning that new fighting in southern and central Unity, which already faced extremely high levels of food insecurity and malnutrition, had forced thousands of people into swamps, raising concerns about growing hunger.[151] When, however, in November 2016 FAO warned once again of the unprecedented and escalating food crisis facing South Sudan,[152] the Deputy Minister of Agriculture and Food Security criticized the FAO assessment to UNMISS and claimed that people in rural areas had not been affected by the conflict and had been able to cultivate normally. He acknowledged that people in urban areas faced food insecurity, mainly owing to the inability of the leadership in Juba to pay civil servants.[153] That same month, there were fresh reports of civilians being targeted and displaced and of homes being looted and burned, including in Leer, Mayendit and Rubkona counties. By 30 November, the Bentiu site was hosting more than 120,300 internally displaced persons, up from some 108,400 in the middle of the month.[154] As at 23 February, 118,851 people were being hosted in the site.[155] Widespread forced displacement and the resultant compromised livelihoods were a contributing factor to the extreme food shortages that followed.

104. In its report of 6 March 2017 (A/HRC/34/63, para. 86), the Commission on Human Rights in South Sudan summarized the situation as follows:

> The Commission deems the continued restrictions and impediments on access to vulnerable populations placed on the United Nations and humanitarian agencies operating in South Sudan unlawful. The 'scorched earth' policy may amount to starvation, which is prohibited by international law as a method of warfare, as is denying civilians safe passage from besieged areas. The civilian population is not provided with adequate food or access to health care, and their right to life is often threatened or breached by all parties to the conflict throughout the country.

D. Obstruction of peacekeeping missions

105. As detailed in the Panel's previous reports, SPLM/A in Government and affiliated elements have consistently demonized the United Nations and UNMISS in

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Update_Aug_Sept%202015.pdf.

[150] IOM, "UNMISS Bentiu PoC update: displacement tracking and monitoring — 24-30 October 2015", 30 October 2015; Office of the Deputy Humanitarian Coordinator for South Sudan, "Crisis impacts on households in Unity state, South Sudan, 2014-2015: initial results of a survey", January 2016; available from http://reliefweb.int/sites/reliefweb.int/files/resources/160202_Crisis%20impacts%20on%20households%20in%20Unity%20State_SS.pdf.

[151] See www.fao.org/3/a-bq799e.pdf; and http://reliefweb.int/report/south-sudan/2016-south-sudan-humanitarian-response-third-quarter-review.

[152] United Nations News Centre, "South Sudan will face escalating food crisis in 2017, UN agriculture agency warns", 7 November 2016. Available from www.un.org/apps/news/story.asp?NewsID=55496#.WL7IM3el1Pt.

[153] Confidential UNMISS sources.

[154] Available from http://reliefweb.int/report/south-sudan/south-sudan-humanitarian-snapshot-november-2016.

[155] Available from http://reliefweb.int/report/south-sudan/unmiss-poc-update-no-154.

particular, creating a context in which attacks against United Nations personnel and facilities are construed as a defence of national sovereignty (see S/2016/793, paras. 32-36, and S/2016/963, paras. 55-57). In a meeting on 15 December 2016 with the Chair of the Committee, the representatives of France and the United Kingdom on the Committee and members of the Panel, the Minister of Cabinet Affairs, Martin Elia Lomuro, reading from a presentation approved by Kiir, threatened that the imposition of an arms embargo or targeted sanctions by the Council would "expose United Nations personnel to danger".

106. Sustained, systematic violations of the status-of-forces agreement have continued. There were 21 violations, by civilian and armed actors affiliated with SPLM/A in Government, recorded in January 2017 alone. The largest category of violations (10) were movement restrictions imposed against the United Nations. Such restrictions prohibit UNMISS from patrolling in areas in which conflict has flared and human rights violations are being reported, impeding the Mission from implementing its mandate to protect civilians and monitor and report on human rights abuses.[156]

107. In one such incident, on 2 February 2017 an UNMISS military officer in the town of Magwe was assaulted by four SPLA soldiers who took his weapon and mobile phone and accused him of unlawfully taking photographs. A nearby UNMISS patrol team intervened, which caused the soldiers to leave the scene. UNMISS recovered the weapon from the SPLA commander in the area, who reported that the soldiers had been arrested.[157]

108. The regional protection force authorized in resolution 2304 (2016) has not yet deployed to South Sudan. SPLM/A in Government continues to send mixed signals, publicly and privately, about its position in that regard. On 13 January, the Minister of Information and Broadcasting, Michael Makuei, told the media that the authorization for the force had expired on 15 December 2016 and the Security Council would therefore need to adopt a new resolution to reauthorize its deployment. On 20 January, Kiir said publicly that he welcomed the force but would "not hand over control" of Juba International Airport.[158] In this connection, it will be recalled that, by paragraph 10 (b) of resolution 2304 (2016), the Council authorized the force to "protect the airport".

Wau Shilluk: a story of the "missing" displaced

On 25 January 2017, SPLA and the Agwelek militia affiliated with SPLM/A in Opposition, under Lieutenant General Johnson Olony, renewed hostilities in Upper Nile. Shortly thereafter, Wau Shilluk, with a population of 20,400, was reported to be largely deserted.[a] The fighting disrupted humanitarian assistance, including the relocation of 16 aid workers from Wau Shilluk to Juba.[b] By mid-February 2017, the United Nations had estimated that most of these people had been displaced to Kodok and surrounding areas north of Malakal, but had little more information on their status or well-being.[c]

In its report of January 2016 (S/2016/70), the Panel described the denial of humanitarian access to Wau Shilluk in 2015 by armed groups affiliated with the leadership in Juba. Events in February 2017 are a repeat of these actions, with SPLA repeatedly denying access to UNMISS, humanitarians and the Ceasefire and Transitional Security Arrangements Monitoring Mechanism to Wau Shilluk.[d]

[156] Documentation provided by UNMISS and analysed by and on file with the Panel.
[157] Confidential United Nations sources.
[158] UNMISS report, 20 January 2017.

Furthermore, SPLA has denied access from Malakal to some 35,000 people displaced from Wau Shilluk and surrounding villages to Kodok and Aburoc,[e] forcing costly aid operations to be routed from Juba. In one instance, on 23 February 2017, a joint mission to Kodok by UNMISS and the Ceasefire and Transitional Security Arrangements Monitoring Mechanism was stopped by SPLA less than 1 km from Wau Shilluk. Reminiscent of the threat made in August 2015 by the then SPLA commander in Malakal that he would fire on any humanitarian workers or UNMISS personnel attempting to cross the Nile (see S/2016/70), SPLA threatened to shoot the team if it proceeded.[f]

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[a] Médecins sans frontières, "South Sudan: fleeing civilians cut off from emergency healthcare in Wau Shilluk", 3 February 2017. Available from www.msf.org/en/article/south-sudan-fleeing-civilians-cut-emergency-healthcare-wau-shilluk.

[b] IOM, "Fighting blocks IOM humanitarian assistance in Upper Nile, South Sudan", press release, 31 January 2017, available from www.iom.int/news/fighting-blocks-iom-humanitarian-assistance-upper-nile-south-sudan; and Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: South Sudan, No. 2, 3 February 2017, available from http://reliefweb.int/sites/reliefweb.int/files/resources/170203_OCHA_SouthSudan_Humanitarian_Bulletin_2.pdf.

[c] UNMISS, press briefing, 22 February 2017, available from https://unmiss.unmissions.org/unmiss-srsg-david-shearer-press-briefing-near-verbatim-transcription-22-february-2017; Office for the Coordination of Humanitarian Affairs, "Humanitarian coordinator calls for urgent access as needs surge in South Sudan", press release, 28 February 2017, available from http://reliefweb.int/sites/reliefweb.int/files/resources/SS_170228_Press%20Release_Humanitarian%20Access_FINAL.pdf.

[d] UNMISS, press briefing, 22 February 2017, available from https://unmiss.unmissions.org/unmiss-srsg-david-shearer-press-briefing-near-verbatim-transcription-22-february-2017; Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: South Sudan, No. 3, 17 February 2017, available from http://reliefweb.int/sites/reliefweb.int/files/resources/170217_OCHA_SouthSudan_Humanitarian_Bulletin_3.pdf.

[e] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: South Sudan, No. 4, 10 March 2017. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/170310_OCHA_SouthSudan_Humanitarian_Bulletin_4.pdf.

[f] Confidential United Nations sources.

VI. Procurement of arms

109. Consistent with paragraph 12 (c) of resolution 2290 (2016), the Panel has continued its investigations into the supply, sale or transfer of arms and related materiel to individuals and entities undermining the implementation of the Agreement or participating in acts that violate international human rights law or international humanitarian law.

110. As noted in the Panel's previous reports, the preponderance of evidence shows continued procurement of weapons by the leadership in Juba for SPLA, the National Security Service and other associated forces and militias. There is some, largely testimonial, evidence of arms being acquired for various opposition groups; however, it appears from a review of the information available that these supplies have been limited to comparatively small numbers of light weapons and ammunition.

111. The wide geographical range and diversity of the operations described in section III support the Panel's observations in its reports of September and November 2016 that the leadership in Juba sought extensive resupply of its forces in anticipation of the current dry season offensive. This offensive illustrates significant

logistical preparation and, especially in the cases of the attacks in Wau Shilluk and Yuai described in section III, extensive planning and coordination.

112. Weapons continue to flow into South Sudan from diverse sources, often with the coordination of neighbouring countries. Reports from independent sources indicate that the border areas between South Sudan and the Sudan and Uganda remain key entry points for arms,[159] with some unsubstantiated reports of smaller numbers of weapons also crossing into South Sudan from the Democratic Republic of the Congo.[160] There are also persistent reports and public accusations of shipments to forces affiliated with the leadership in Juba from further afield, specifically from Egypt.

A. Egypt

113. As described in its report of September 2016 (S/2016/793), the Panel obtained a contract signed in May 2015 between SPLA and a company called Egypt and Middle East for Development for the provision of "Panthera armoured vehicles". The number of vehicles and the technical specifications are not outlined in the contract, but the stated value of the contract was $7,187,500. The company contracted to provide the vehicles is registered in Egypt and based in Cairo.[161] The Panel has established that an individual involved with the company has extensive connections with senior SPLA personnel. The individual outlined these connections to the Panel and confirmed that he had facilitated meetings in Lebanon in 2015 for a delegation of South Sudanese military officers working for Malong. This meeting is discussed in more detail in section C below.[162] Two sources with first-hand knowledge have provided the Panel with additional background information on this transaction that suggests that the contract may not have been implemented.

114. These sources stated that the drafters of the contract had used it as an embezzlement mechanism. The sources claim that, under the pretext of financing the procurement of weapons, cash had been carried into Egypt by SPLA officers, working at the direction of Malong, and transferred to unnamed associates in Cairo.[163] At a meeting in Cairo in January 2017 with a confidential source involved in these transactions, the Panel was provided with documentation detailing a large arms procurement by the National Security Service of South Sudan from a company based in the Seychelles (see sect. F). The Panel continues to investigate these transactions.

115. The role of Egypt in the conflict in South Sudan, and in particular its reported provision of weapons to the leadership in Juba, was a frequent source of tension in the region during the reporting period. For example, the President of the Sudan told the media in February 2017 that "we have intelligence that they [Egypt] supported the South Sudanese government and continue to support the government with arms and ammunition".[164] Information provided confidentially to the Panel from various sources, including high-ranking South Sudanese military and intelligence officers and a Member State, asserts that supplies of military equipment, including small

[159] Confidential interviews with international arms experts, February and March 2017.
[160] Interview with a confidential source, February 2017.
[161] Official correspondence between the Panel and the Government of Egypt, 7 September 2016.
[162] Previously documented in the Panel's report of September 2016 (S/2016/793).
[163] The Panel has documentation provided by individuals with first-hand knowledge of this transaction that supports this account. These documents are on file with the Panel.
[164] *Sudan Tribune*, "Egypt provides South Sudan with arms and ammunition: al-Bashir", 22 February 2017. Available from http://sudantribune.com/spip.php?iframe&page=imprimable&id_article=61718. The Panel has also received information from other regional States alleging the supply of arms by Egypt to South Sudan.

arms, ammunition and armoured vehicles, have been shipped into South Sudan over the past year.[165] The leadership in Juba has explicitly denied Egyptian involvement in arms supplies, however.[166] The Panel continues to investigate the alleged shipments.

B. L-39 jet acquisitions

116. In its reports of September and November 2016 (S/2016/793 and S/2016/963), the Panel documented the acquisition of at least two L-39 jets by SPLM/A in Government and detailed sightings of the jets in operation in South Sudan. At least one of the jets had been damaged during combat operations.[167] Further investigations revealed that a Hungarian pilot, Tibor Czingáli, reportedly working for the government of South Sudan, had been flying combat missions from Juba.[168] Czingáli had also been contracted to fly with the Ugandan air force.[169]

117. In February 2017, the Panel received information that an IL-76 transport aircraft departed from Kharkiv, Ukraine, on or about 27 January 2017, bound for Gulu, Uganda. The aircraft manifest indicated that it contained two L-39 jets and engines provided by Musket OU, a company based in Tallinn, that had been overhauled and that the flight was operated by the Ministry of Defence of Ukraine.[170] Subsequently, the Government of Ukraine confirmed to the Panel that the two jets were listed as being operated by the Ugandan military and that the end user certificates indicated that the aircraft were to be used only for advanced pilot training.[171] Given Czingáli's roles in both South Sudan and Uganda and photographic evidence of the jet he operated in South Sudan, the Panel is investigating whether jets based in Uganda have been operated in South Sudan, contrary to the provisions of the end user agreement. The Panel is investigating reports that the jets have been involved in military operations in South Sudan.

118. An L-39 jet has been seen, apparently based, at Juba International Airport since August 2016.[172] Witness statements indicate that efforts had been made to obscure its identification markings; nevertheless, information provided to the Panel indicates that it is not one of the two jets transported to Uganda in January. The Panel has not yet been able to identify the jet's origin.

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[165] Amid this tension, and after unsubstantiated media reports in February 2017 of Egyptian planes being involved in aerial bombing in Upper Nile ("South Sudan rebels accuse Egypt of bombing raid, drawing denials", Reuters, 4 February 2017, available from www.reuters.com/article/us-south-sudan-war-idUSKBN15J0KG), an Egyptian military aircraft landed in Juba on 1 March to deliver medical supplies. The landing of the military plane led to speculation in some publications of a weapons shipment ("Egyptian military plane lands in Juba, delivers supplies to South Sudan Army", 2 March 2017, available from http://nyamile.com/2017/03/02/egyptian-military-plane-lands-in-juba-delivers-supplies-to-south-sudan-army/; "Juba faction confirm growing Cairo alliance – deny that it targets Ethiopia", 11 March 2017, available from https://messengerafrica.com/2017/03/11/juba-faction-confirms-growing-cairo-alliance-deny-that-it-targets-ethiopia/). The contents of the shipment were partially inspected by a group of invited military attachés from embassies in Juba.

[166] "South Sudan denies receiving weapons from Egypt", Radio Tamzuj, 26 February 2017. Available from https://radiotamazuj.org/en/article/south-sudan-denies-receiving-weapons-egypt.

[167] Photographs on file with the Panel.

[168] "Bevetés közben lőtték meg a magyar vadászpilótát Szudánban", *Blikk*, 13 September 2016. Available from www.blikk.hu/aktualis/kulfold/bevetes-kozben-lottek-meg-a-magyar-vadaszpilotat/lpy2bgn.

[169] "Terroristára vadászott, lezuhant a magyar pilóta", *Blikk*, 28 May 2015. Available from www.blikk.hu/aktualis/terroristara-vadaszott-lezuhant-a-magyar-pilota/82rg0qs.

[170] Confidential documents held by the Panel.

[171] Official correspondence between the Panel and the Government of Ukraine.

[172] See annex IV for imagery.

C. Ammunition manufacturing

119. As described in the Panel's report of September 2016 (S/2016/793), a confidential source provided the Panel with a letter dated 12 August 2015 from Malong to the managing director of a commodity trading company in Beirut, Rawmatimpex, Louis Farsoun. The letter detailed the SPLA request to work with Rawmatimpex in the development of an ammunition manufacturing facility in South Sudan. The Panel subsequently met Farsoun in Beirut in November 2016 to discuss the reports. He confirmed that he had held a meeting in Beirut with SPLA officers in August 2015, but denied that his company was involved in the manufacture of ammunition or that he had entered into any agreement with SPLA to develop a factory in South Sudan. He claimed that the meeting had been facilitated by an Egyptian and that that individual had misrepresented Farsoun's business operations. Farsoun further claimed that the SPLA officers had left Lebanon shortly after the meeting and that he had had no other discussions on the matter with them.

120. In January 2017, the Panel subsequently met the facilitator of the meeting. He again confirmed the details of the meeting and that Malong had requested him to arrange a meeting, as described in the letter, to seek the capacity to manufacture ammunition in South Sudan. The intermediary also asserted that he had taken no further action in relation to the request.

121. The Panel has determined that this investigation clearly establishes the intent of Malong to develop ammunition manufacturing capacity in South Sudan. The planned location of the facility is reported to be Luri, east of Juba. In its report of January 2016 (S/2016/70), the Panel described the development of Luri as a military facility used in recent years as a marshalling point and training area for Dinka militia, in particular youth recruited from greater Bahr el-Ghazal.[173] Luri is also frequently used to base the Mi-24 helicopters and is the site of one of Kiir's private residences (see S/2016/70, S/2016/793 and S/2016/963). The Panel is investigating further to establish whether the plan has advanced since the meetings in August 2015.

D. Spanish investigation

122. The Panel has continued its investigation into the information recovered during the arrest of a French/Polish national, Pierre Dadak, in July 2016, as described in its report of November 2016 (S/2016/963). Dadak, a former officer in the Polish army, had developed an extensive network of contacts in Eastern Europe, in particular Poland and Ukraine, and held diplomatic credentials (reportedly fraudulently obtained) from Guinea-Bissau.[174] The investigation uncovered communications between Dadak and his associates and a member of SPLM/A in Opposition between January and June 2014. In these communications, SPLM/A in Opposition requested supply of the following weapons:

(a) 40,000 AK-47 rifles;

(b) 200,000 boxes of AK-47 ammunition;

(c) 30,000 PKM machine guns;

(d) 180,000 boxes of PKM ammunition;

[173] See, for example, the report of the African Union Commission of Inquiry on South Sudan of 2014.

[174] Investigation documents on file with the Panel.

(e) 3,000 anti-tank rounds;

(f) 300 anti-aircraft surface-to-air missiles (SAM-7);

(g) 2,000 boxes of 14.5-mm ammunition;

(h) 8,000 rocket-propelled grenade rockets;

(i) 10,000 BM-12 rockets;

(j) 8,000 60-mm rounds;

(k) 10,000 rocket-propelled grenade launchers;

(l) 300 anti-tank guns;

(m) 300 anti-aircraft guns;

(n) 3,000 pistols;

(o) 3,000 hand grenades.

123. The evidence suggests that Dadak sought to procure this order through contact with arms manufacturers based in Eastern Europe.[175]

124. In February 2017, the Panel interviewed one of the South Sudanese individuals identified in the documents as being involved in arms acquisitions in South Sudan and another South Sudanese individual known by the Panel to have knowledge of the deal. Both individuals confirmed elements of the transaction, specifically that there was contact with Dadak's organization, that a meeting was held in Dakar in January 2014 during which this deal was discussed and that the meeting was attended by a Dadak associate who travelled from Spain.[176]

E. United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and SPLM/A in Opposition arms

125. The Panel has reviewed the inventory of weapons taken from SPLM/A in Opposition forces who accompanied Machar into the Democratic Republic of the Congo in August 2016. As noted in previous reports, the weapons, all small arms, came from various sources and were of varying ages. Interviews with some of the forces indicated that most of the weapons had been acquired through defection or battlefield capture.[177]

126. The Panel requested arms tracing information from four Member States — Austria, China, Israel and the United States — to obtain more information about some of the weapons with the aim of identifying their source.

127. The Panel has not yet received a response to three of the four requests. Austria provided information on one weapon, a Glock 19 pistol. The weapon, according to Austrian records, was sold by Glock in 2012 to a Nairobi-based company, Armatech Limited. The shipping information lists the weapon as one of a batch of "sport pistols" and the end-user certificate states that they are not for further export.[178] The Panel is currently unable to establish how the weapon passed from Kenya into South Sudan.

[175] Confidential documents on file with the Panel.

[176] The full list of those in attendance at the meeting is yet to be confirmed. Investigations are continuing.

[177] Interview notes on file with the Panel.

[178] Manifest and end user certificate on file with the Panel.

F. Seychelles contract

128. The Panel has recently received documentation from a confidential source that details a contract, signed in June 2014 by two National Security Service officers, for a company based in Seychelles to provide weapons to the Internal Security Bureau of the Service, headed by Akol Koor. The contract sum is for $264 million, covering a very large quantity of heavy weapons, small arms and ammunition. Among the items listed are:

(a) 30 T55 tanks;

(b) 20 ZU-23 anti-aircraft weapons;

(c) 5,000 rounds of T55 tank ammunition;

(d) 10 BM-21 "Grad" rocket systems;

(e) 10,000 122-mm M21OF missiles;

(f) 3,000 S8 rockets for MI-24 helicopters;

(g) 20 million rounds of 7.62x39-mm ammunition;

(h) 50,000 AK-47 assault rifles;

(i) 12,000 RPG-7 rounds.

129. The Panel is investigating this order to establish whether it was executed as outlined.

VII. Implementation of the asset freeze and travel ban

A. Asset freeze

130. The Panel has obtained evidence to suggest that four of the five individuals designated by the Committee may maintain assets within South Sudan.

131. **Peter Gadet Dak**. Documents obtained by the Panel show that on 8 August 2008 South Sudan Associated Advocates registered Peter Gadet as one of the directors of a trading and transportation company, Nile Super-Transport Company Limited.[179] The nominal share capital of the company is $500,000, divided into 10,000 shares of $50 each. Gadet's share would be $175,000.

132. **Gabriel Jok Riak**. Documents obtained by the Panel show that, on 22 August 2012, under the auspices of the Companies Act (2012), Jok Riak was incorporated into the board of directors of Zenith Company Limited. His ownership interest is 20 per cent, and he is one of the company's directors.[180] The Panel also obtained credible information that he may be a shareholder in Haks Sudan Limited, which conducts import/export transactions.[181] The nominal share capital of the company is $500,000, divided into 100 shares of $5,000 each. His share would be $125,000.

133. **Marial Chanuong Yol Mangok**. Documents obtained by the Panel show that, on 14 January 2013, the board of directors of an oil trading company, Nyamlel Petroleum Company Limited, transferred 25 per cent of its shares to Gum Marial Chanuong Yol.[182] The transfer was confirmed in a letter to the Chief Registrar of

[179] Document verified by a member of South Sudan Associated Advocates, Dangtiel A. Kuur.
[180] Letter from a private advocate, David Misuk Michael, a member of South Sudan Associated Advocates.
[181] Documentation on file with the Panel.
[182] Born on 29 May 1999 and a national of South Sudan.

Legal Entities in South Sudan at the Ministry of Justice.[183] Gum Marial Chanuong Yol is the son of a listed individual, Marial Chanuong Yol Mangok, who, according to information obtained by the Panel, remains the actual beneficiary of 25 per cent of the shares in Nyamlel Petroleum Company Limited.[184]

134. The Panel has received no responses to its information requests to the above-mentioned companies. The Panel has also transmitted requests to nine banks requesting confirmation that the financial assets of the individuals designated by the Committee have been frozen. The Panel has received responses from four banks.[185]

B. Travel ban

135. Peter Gadet, whom the Committee designated in June 2015, was in Khartoum as at the time of the submission of the present report to the Committee (mid-March 2017).

VIII. Recommendations

136. The Panel makes the following recommendations:

(a) That, to demonstrate the Security Council's resolve in supporting an inclusive and sustainable peace in South Sudan, as stated in its resolution 2290 (2016), in the joint communiqué of the transitional government of national unity and the Council of September 2016 and in its multiple condemnations of the ongoing hostilities, attacks against civilians and obstruction of UNMISS and the delivery of humanitarian assistance, including in its press statement of 10 February 2017, the Committee designate those responsible for the actions and policies that threaten the peace, security and stability of South Sudan, as defined in paragraphs 9 and 10 of the resolution. In addition to the confidential annex presented by the Panel to the Committee in January 2016, the Panel has provided evidence in the present report, as well as in its previous reports in 2016 (S/2016/70, S/2016/793 and S/2016/963), of multiple other individuals responsible for or complicit in actions and policies described in paragraph 9 of resolution 2290 (2016), including those responsible for the conditions that have resulted in the unprecedented humanitarian crisis, including famine;

(b) That, to demonstrate the Security Council's resolve in supporting an inclusive and sustainable peace in South Sudan and to prevent the further destabilization of the security situation, the expansion and extension of the conflict, the continuing large-scale human rights violations that the Panel has determined are directly related to the supply of arms and ammunition to non-State actors and groups by all sides and the further transfer or use of heavy equipment, the Security Council impose an embargo on the supply, sale or transfer of arms and related materiel to South Sudan. The Panel reiterates its recommendations for the modalities for the implementation of such an embargo as outlined in paragraph 84 (d), (e) and (g) of its interim report for 2015 (S/2015/656). In the Panel's

[183] Letter from a private attorney, Shadia Mubarak F. Elmola, dated 14 January 2013.

[184] Interview with a confidential source in Nairobi, November 2017, data obtained during investigations and a copy of the South Sudanese passport of Gum Marial Chanuong Yol.

[185] The Panel sent requests to CFC Stanbic Bank, Nile Bank, Ivory Bank, International Commercial Bank Limited, Equity Bank, Co-operative Bank of South Sudan, Buffalo Commercial Bank, Alpha Commercial Bank and Qatar National Bank. Qatar National Bank, International Commercial Bank Limited and Alpha Commercial Bank indicated that they held no assets belonging to the individuals in question. Equity Bank confirmed that it had frozen the accounts of the individuals listed by the Committee.

assessment, an arms embargo is technically feasible and would have a positive impact on the political and security environment;

(c) That, to promote the full implementation of the Agreement, including chapter V thereof, as stated in paragraph 6 of resolution 2290 (2016), the Security Council should send a letter to the President of the Human Rights Council and to the United Nations High Commissioner for Human Rights requesting that the Commission receive the full legal and forensic support necessary to execute effectively its mandate to collect, preserve and analyse evidence of human rights violations and violations of international humanitarian law;

(d) That, to demonstrate its resolve in furthering compliance with the designations that it has already made, the Committee write to the States members of IGAD to reiterate their obligation to enforce the travel ban and asset freeze established under resolution 2206 (2015) and extended under resolution 2290 (2016).

Annex I

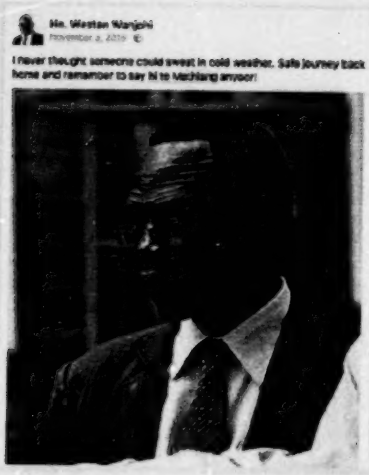
Table of correspondences sent and received by the Panel from 1 June 2016 to 15 March 2017

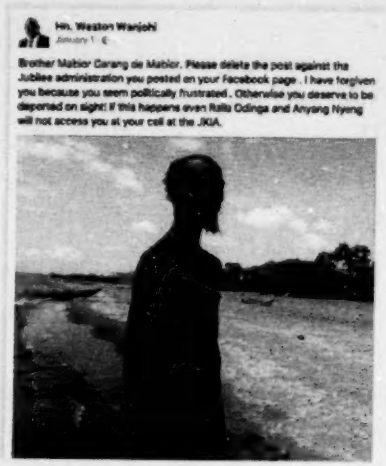
Country/other entity	*Number of letters sent*	*Requested information fully supplied*	*Information partially supplied*	*No answer*	*Pending*
ABN Amro	1	1			
Africa Gold Refinery	1				1
Alpha Bank	1	1			
Arne Blystad	1	1			
Austria	2	2			
Buffalo Bank	1			1	
Bulgaria	2	2			
CFC Stanbic Bank Limited	2			2	
Chair 2206 Committee	6				
China	1			1	
Coop Bank	1			1	
Egypt	1	1			
Egypt Air	1			1	
Emirates	1				
Equity Bank	2	1			1
ESAAMLG	1		1		
Ethiopian Airlines	1	1			
EUROPOL	1	1			
Fly Dubai	1	1			
Guinea-Bissau	1			1	
ICGLR	1			1	
IMF	1	1			
Int Commercial Bank	1	1			
Israel	2			2	
Ivory Bank	1			1	
KCB Group Limited	2	1		1	
Kenya	2			1	
Kenya Airways	1			1	
Kenya Central Bank					

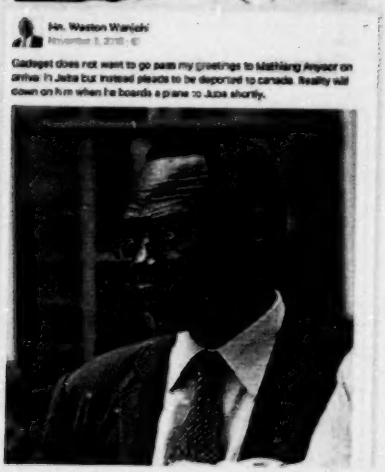
Country/other entity	*Number of letters sent*	*Requested information fully supplied*	*Information partially supplied*	*No answer*	*Pending*
Konig & Cie	1	1			
Kumiai Navigation	1	1			
Kyklades Maritime	1	1			
Lebanon	1			1	
Maran Tankers	1			1	
MENAFATF	1			1	
Moldova	1	1			
Netherlands	1			1	
Nile Bank	1			1	
Nordic American Tankers	2	2			
Pacific Merchant	1	1			
Phoenix Energy	1	1			
Pleiades Shipping Agents	1			1	
Poland	1	1			
Premuda Spa	1	1			
President of the Security Council	2				
QN Bank	1	1			
Samos Steamship	2	2			
Shipping Co India	1	1			
South Africa	1	1			
South Sudan	10	2	2	4	
Spain	2	2			
Stanbic Bank	1			1	
Streit Group	1	1			
Sudan	3			2	
Trafigura	1		1		
UAE	1			1	
Uganda	5	1		4	
Ukraine	4	3		1	
United States of America	1				1
UNMISS	1	1			
Total	96	40	4	33	3

Annex II

Selected Social Media Posts by Westo Wanjohi Wahome


Hn. Weston Wanjohi
I never thought someone could sweat in cold weather. Safe journey back home and remember to say hi to Machiang anyoor!


Hn. Weston Wanjohi
Brother Mabior Garang de Mabior. Please delete the post against the Jubilee administration you posted on your Facebook page . I have forgiven you because you seem politically frustrated . Otherwise you deserve to be deported on sight! If this happens even Raila Odinga and Anyang Nyong will not access you at your call at the JKIA.


Hn. Weston Wanjohi
Gadiget does not want to go pass my greetings to Machiang Anyoor on arrival in Juba but instead pleads to be deported to canada. Reality will dawn on him when he boards a plane to Juba shortly.

Hn. Weston Wanjohi
November 2, 2016 · 🌐

Wapi James Gatdet Dak?

6. Consequently, it is apparent to the Government of Kenya that the continued deployment of its troops in South Sudan is no longer feasible and in contrary to their safety and well-being. It has therefore decided to:

a. Honor the decision to appoint Lt. Gen. Johnson Kalumiya as well as the offer to nominate a replacement;

b. Withdraw, cumulatively, Kenyan troops currently on deployment in South Sudan, and decommission plans to contribute to the regional Protection Force; and

c. Disengage from the South Sudan Peace Process.

MINISTRY OF FOREIGN AFFAIRS
3 NOVEMBER, 2016

Like Comment Share

31 Top Comments

Hn. Weston Wanjohi
January 13 · 🌐

Good evening my friend on Facebook Lam John Kuel Lam. I want to remind you that a wild cat (Ang'au) does not escort a chicken so don't go overboard like James Gatdet. The position given to you might turn out to be a curse to you and your family if misused and Dr Riek knows that very well.

Hn. Weston Wanjohi added 3 new photos.
January 6 · 🌐

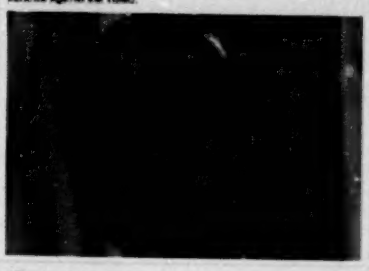
Now who's the real enemy of pagan Amum... is it the one who made him Secretary General of the ruling party or the cold blooded killer of his brother a PONT

Like Comment Share

44 Top Comments

Hn. Weston Wanjohi
November 2, 2016 · 🌐

Holland has just crowned 2 genocide suspects to Rwanda James Gatdet style. The two are Jean Baptiste Mugimba & Jean Claude Iyamuremye. Someone somewhere should be worried with this new trend because I see him being deported back to his country in the near future for inciting violence against the TRNU.



Hn. Weston Wanjohi
January 14 · 🌐

The following are some of the priority bills I intend to sponsor in parliament year God willing when elected Mp Roysambu.

1. #AntiForeignRebelsActivityBill . This bill will seek to sanction war lords in Kenya. I'll seek to seize their property, freeze their bank accounts and have them deported to Pagak.

2. #CountyDisasterandEmergencyfundbill.
The bill will seek to establish a budgetary fund for all counties aimed at addressing disaster and emergencies in counties to avoid the current knee-jerk reactions to emergencies such as flooding in estates like Zimmerman and Kahawa West.

Hn. Weston Wanjohi
January 21 · 🌐

Earn $10000 by posting here pictures of Lou Nuer South Sudan elder Dr Riek Machar Teny Dhurgon at Donald Trump's inauguration ceromony...."the padlock to the cage in Pretoria is still intact"!

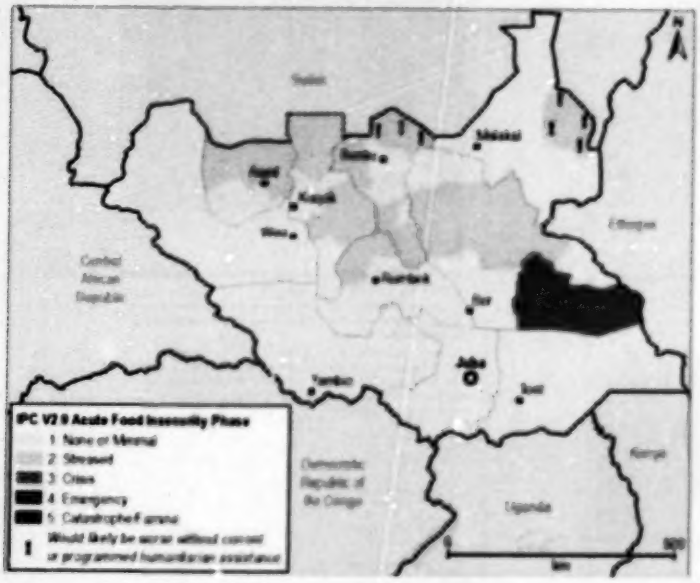
Like Comment Share

9 Top Comments

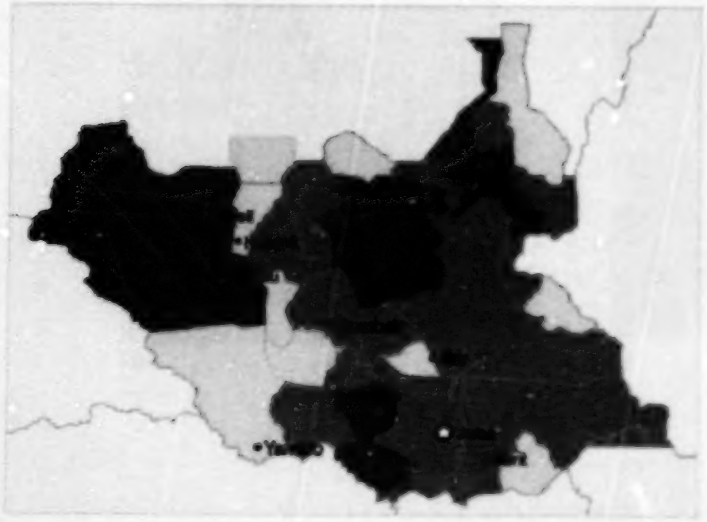
Annex III

Deterioration of Food Security in South Sudan

October 2013:



February to May 2017:



Source: FEWS NET

Annex IV

The Panel has documented the presence of an L-39 'Albatross' at Juba International Airport. Satellite imagery indicates that the jet has been present, apparently consistently, between 27 August 2016 and 3 March 2017.

United Nations S/2017/327

Security Council

Distr.: General
17 April 2017
English
Original: Arabic

Identical letters dated 16 April 2017 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and President of the Security Council

On instructions from my Government, I should like to convey to you the following information:

On Saturday, 15 April 2017, terrorists committed a despicable crime that was intended to kill the greatest number of women and children when they detonated a vehicle packed with explosives in the area where buses and ambulances had gathered to transport 5,000 residents of the towns of Kafraya and Fu'ah. Those towns are located in the Rashidin area, which lies to the west of Aleppo city and is controlled by armed terrorist groups that are supported primarily by Turkey, Qatar and Saudi Arabia.

That cowardly terrorist bombing killed more than 120 children and women, and injured more than 200 other children and women. The explosion also injured dozens of other innocent civilians and severely damaged buses and ambulances. The terrorists brought the explosive-laden vehicle to the gathering point after they had loaded it with foodstuff for children, in order to kill the greatest number of children and their parents.

The armed terrorist groups continued their descent into criminality by visiting death and destruction on the people of Fu'ah and Kafraya, in particular children and women, even after it had become necessary to evacuate the residents temporarily from their towns. Every single day for more than four years, the people of those towns have endured the harsh siege and starvation imposed by the armed terrorist groups and their non-stop shelling, which would have resulted in a humanitarian catastrophe were it not for the strenuous efforts of the Syrian Government to save the lives of the inhabitants, break the siege imposed on those towns and alleviate the suffering of the townspeople by evacuating them temporarily to shelters, including, inter alia, the Jabrin shelter near Aleppo city.

The above-mentioned terrorist attack coincided with the frantic campaign mounted by the armed terrorist groups and their masters after their impotence had been exposed by the success of the national reconciliations that are being concluded on a regular basis, thus leading them to try to delay implementation of the Four Towns Agreement. That Agreement had been concluded in order to lift the deadly siege imposed on Syrian civilians in Fu'ah and Kafraya, and remove all armed men from the towns of Zabadani and Madaya, and thereby relieve the suffering that

Please recycle

civilians have endured at the hands of the terrorists, which the terrorists have sought to prolong in order to achieve their inhuman aims.

It is notable that those, in particular in such countries as Britain and France, who claim to defend human rights and protect the lives of Syrian civilians have once again revealed their duplicity and the hypocrisy of their policies, which promote death and destruction, by remaining as silent as the grave with regard to that terrorist bombing and by failing to condemn it. That bombing can only be characterized as a war crime and a crime against humanity that serves to complement the unjustified, heinous aggression that America committed against the Sha'irat airbase of Syria.

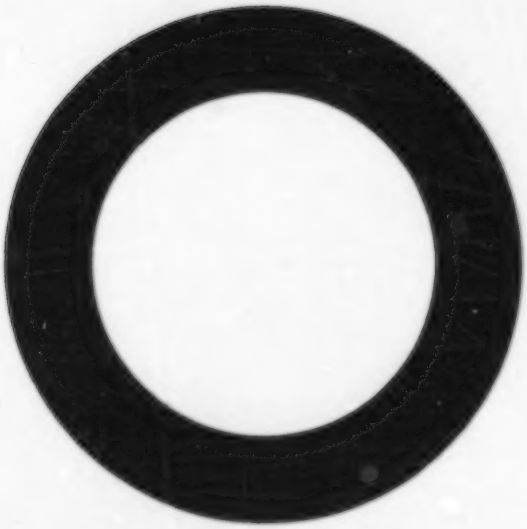
That cowardly terrorist attack was part of the response of the armed terrorist groups and the regimes that control them to the victories of the Syrian Arab Army and its allies, and the army's success in confronting the terrorist groups Islamic State in Iraq and the Levant, the Nusrah Front and associated terrorist entities in many parts of Syria.

The Government of the Syrian Arab Republic reiterates the pressing need for the international community to unify its counter-terrorism efforts and, in that regard, to coordinate and cooperate fully with the Government. The international community must also desist from raising any doubt as to or ignoring the paramount priority of countering terrorism, in order to restore security and stability in Syria, the entire region and the world.

The Syrian Arab Republic calls upon the Secretary-General and President of the Security Council to condemn that criminal act of terrorist aggression, hold accountable the perpetrators and the Governments of States that arm, fund and shelter terrorists, in particular Turkey, Qatar, Saudi Arabia, France, Britain and the United States, and compel those States to implement fully Security Council resolutions concerning counter terrorism, in particular resolutions 1267 (1999), 1373 (2001), 1989 (2011), 2170 (2014), 2178 (2014), 2199 (2015) and 2253 (2015), and the United Nations Global Counter-Terrorism Strategy.

I should be grateful if these identical letters could be issued as a document of the Security Council.

(*Signed*) Bashar **Ja'afari**
Ambassador
Permanent Representative



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Letter dated 17 April 2017 from the Secretary-General addressed to the President of the Security Council

Following the outbreak of hostilities in Juba from 8 to 11 July 2016 and the resulting violence perpetrated against civilians, on 23 August 2016, my predecessor, Ban Ki-moon, ordered an independent special investigation, led by Major General (retired) Patrick Cammaert, to examine the actions of the United Nations Mission in South Sudan (UNMISS) in response to the attacks on civilians that occurred, notably within or in the vicinity of the UNMISS compounds in Juba, including the Terrain Hotel and the adjacent protection of civilians sites. On 1 November 2016, an executive summary of the report, including recommendations of the independent special investigation, was shared with the members of the Security Council, as well as publicly released. The recommendations targeted issues unique to UNMISS, as well as those more systemic in nature.

The United Nations employed a two-track approach to take forward those recommendations. First, a Headquarters task force was established to implement the recommendations on systemic and strategic issues under the chairmanship of the Assistant Secretary-General for Peacekeeping Operations. Second, UNMISS devised an action plan to implement the Mission-specific recommendations and provided regular updates to the task force. To keep the Security Council informed about the progress of implementation, a letter was transmitted to the Council on 23 December 2016, followed by a briefing by the Assistant Secretary-General for Peacekeeping Operations during the Council consultations on South Sudan on 23 February 2017.

The update below is intended to summarize the overall achievements of UNMISS and of the Secretariat in implementing the recommendations of the independent special investigation.

From 12 to 19 March 2017, an independent follow-up mission led by Major General (retired) Cammaert returned to Juba to assess the progress made with regard to the UNMISS-specific recommendations. At the request of my Special Representative, the team also travelled to Malakal to review the status of the implementation of the recommendations contained in the board of inquiry report on the attack on that protection of civilians site in February 2016. The assessment concluded that UNMISS had made a commendable effort to enhance its ability to protect civilians, to better plan and prepare its response to crisis situations and to increase staff safety and security. Importantly, the assessment concluded that the modus operandi and the posture of the military and police components had improved as a result of the corrective actions taken by UNMISS. The main achievements, as documented by the assessment team, are set out below.

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Protection of civilians

UNMISS force headquarters is actively providing leadership and guidance on the effective implementation of the Mission's protection of civilians mandate. In August 2016, a series of Force Commander directives were issued to military contingents, requiring that regular scenario-based training and rehearsals be conducted on mandate implementation, use of rules of engagement and directives on the use of force; dynamic and robust patrolling aimed at preventing human rights violations and the abuse of civilians; integrated contingency planning, including evacuation and extraction exercises, with key actors to facilitate preparedness for worst-case and the most dangerous scenarios; and division of responsibilities between the military, police and United Nations security personnel. UNMISS force headquarters also issues monthly orders on freedom of movement that reinforce the Force Commander's directive on freedom of movement. These stress the imperative for all commanders to understand the provisions of the status-of-forces agreement and require them to assert their right to unrestricted freedom of movement, using all means necessary to do so, in line with the mandate and the rules of engagement. The orders also reinforce pre-existing instructions to stand ground for 48 hours at checkpoints when freedom of movement is denied.

While the operational context in South Sudan remains extremely challenging and the restrictions and bureaucratic impediments imposed by the Government and, in some cases, other warring factions continue to hamper UNMISS freedom of movement, the efforts aimed at improving the troop posture and mindset have improved UNMISS access to key hotspots in the past few months. Since January 2017, UNMISS has, on multiple occasions, successfully deployed long-duration patrols to key locations, prioritizing the Greater Equatoria region owing to increased insecurity, population displacement and human rights abuses in the area. Despite obstacles and delays, patrols have reached Yei (three deployments), Kajo Kaji (three deployments), Lainya (two deployments) and Magwe (two deployments). The integrated patrols have been positively received by the population in the respective locations, as well as by many of the local administrations, which have requested that UNMISS extend its visit. The deployments have enabled UNMISS to conduct human rights monitoring and reporting, as well as outreach to local authorities and civil society. UNMISS is currently planning to extend the period of the long-duration patrols from the current average of one week to up to one month in order to capitalize on the presence of Mission personnel in hard-to-reach areas.

The posture of troops with regard to the protection of civilians at risk of physical violence has also improved, as demonstrated by recent examples of robust intervention by UNMISS uniformed personnel. In Bentiu, peacekeepers successfully confronted and stopped armed actors who had harassed, beaten and attempted to abduct four groups of up to 50 internally displaced persons outside the protection of civilians site, using the appropriate escalation of force in line with the rules of engagement. In Pibor, peacekeepers assumed a robust posture and deployed troops and combat vehicles to manage and protect a sudden influx of more than 800 civilians into the protection site following rumours of an impending attack on the town. Meanwhile, in Yei, UNMISS troops intervened to extract United Nations personnel and Ceasefire and Transitional Security Arrangements Monitoring Mechanism personnel stranded at compounds caught in the crossfire during heavy clashes between the Government and opposition forces.

In Juba, the establishment of a weapons-free zone with a 200-m radius around protection of civilians sites and the United Nations House has resulted in a dramatic drop in reported crime and violence, including incidents of sexual and gender-based violence. UNMISS peacekeepers are conducting dismounted patrols within the area

throughout the day and night, as well as cordon-and-search operations within the protection of civilians sites, to disrupt arms trafficking. Such operations include searches of individuals entering the sites; daily searches of zones of up to 30 shelters; targeted searches of specific shelters based on intelligence; and monthly full-scale cordon-and-search operations of the entire site. Between July 2016 and March 2017, 20 full-scale cordon-and-search operations were conducted. Moving forward, UNMISS formed police units will be expected to increase patrols both inside and outside protection of civilians sites, particularly the weapons-free zones, in line with the concept of operations of the United Nations police and in close coordination with the UNMISS military component. The weapons-free zone has been well received by all stakeholders, including the Government, especially given the marked reduction in criminal activity since its implementation. During the month leading up to the establishment of the weapons-free zone, UNMISS recorded 48 serious incidents in the immediate vicinity of the United Nations House, including murder, armed robbery, violent assault, kidnapping and rape. In the six months since its establishment, a total of 12 serious incidents have been reported in the weapons-free zone, amounting to 2 incidents per month. UNMISS is in the process of establishing similar zones in Wau, Bentiu and Malakal.

Contingency planning and preparedness

To address shortcomings regarding crisis response and preparedness, UNMISS has established a mission planning group consisting of all UNMISS components and sections, as well as, on a case-by-case basis, the Office for the Coordination of Humanitarian Affairs, in order to ensure that all contingency plans are coordinated, integrated, complementary and responsive to the current security analysis and threat assessment. Since July 2016, all infantry battalions inducted into the Mission have undergone scenario-based and integrated response training. In January 2017, the force headquarters began a training-of-trainers course to enable military contingents to conduct rules of engagement training and scenario-based response training for their troops on a regular basis. All scenarios are based on actual incidents that have taken place in a given area of operation and are intended to clearly establish troop responsibilities. Formed police units have also rehearsed their security plans for United Nations compounds and protection of civilians sites. The Mission's Juba security contingency plans were updated and rehearsed during three tabletop exercises and three field training exercises conducted between October 2016 and January 2017. Similarly, since February 2017, a total of nine tabletop exercises have been conducted to validate contingency plans in the field offices, and a training plan for the rest of the year is in place.

To improve the coordination and crisis response capabilities of the Mission in Juba, integrated operations centres comprising the military, police, United Nations security and civilian components have been established at the United Nations House and at Tomping. The tactical military and police command centres are united in the integrated operations centres and operate separately but in close proximity to the UNMISS Joint Operations Centre, which at present is co-located with the Security Operations Centre. The integrated operations centres are responsible for coordinating responses to incidents, both internal and external, at the United Nations House, Tomping and the protection of civilians sites.

Staff safety and security

UNMISS has made significant improvements to the security infrastructure of the UNMISS compound and the protection of civilians site in Juba. In particular, to protect the United Nations House and the protection of civilians sites from indirect or direct fire, the Mission established a 200-m belt around the compound and the

protection of civilians site to create the weapons-free zone mentioned previously. The 4-km perimeter around the United Nations House is also being reinforced with a Mifram defence wall, with more than half of it already completed and the remaining sections to be completed by November 2017. Breaches of the internal perimeter fencing are reported and repaired, either by force patrols on the spot or by mission support, within resources. Observation posts along the perimeter of the United Nations House have been reinforced, and firing positions on the ground have been built. The construction of additional observation posts around protection of civilians sites 1 and 3 is under way.

Four bunkers ("safe havens") for staff in both the residential and office areas of the United Nations House and of Tomping are also nearing completion. A total of 4,000 ballistic blankets have been procured and distributed to staff residing in prefabricated buildings in Juba and in field locations. An integrated security system feasibility study has been completed, and new technologies to enhance situational awareness (perimeter intrusion detection, infrared sensors, closed-circuit television, electronic access control systems, turnstiles, etc.) are being tested in the United Nations House and in Tomping. A "live where you work" policy is also under implementation, with a phased plan in place to complete the transfer of personnel to the United Nations House or to Tomping by the end of May 2017. In Juba, United Nations security has restricted all residences for United Nations personnel to zone 1 (close to the Juba International Airport), in order to reduce the area in which security and UNMISS force support are provided, given the limited capacity.

Since July 2016, United Nations security has made considerable efforts to ensure that the security needs of United Nations agencies, funds and programmes and of international non-governmental organizations are appropriately prioritized in line with the security management framework and the Saving Lives Together framework, respectively. The Security Management Team (in Juba) and the area security management teams (in field locations), which comprise Mission and agency, fund and programme representatives, continue to meet regularly and approve all security assessments and security plans in South Sudan. United Nations security shares security information with all agencies, funds and programmes in a timely manner, using such tools as daily and flash reports, mobile text messages and radio and e-mail broadcasts. Two security officers are embedded in the Office for the Coordination of Humanitarian Affairs, in addition to one security officer assigned to support all agencies, funds and programmes without professional security officers.

With regard to international non-governmental organizations and the Saving Lives Together framework, the international non-governmental organizations forum security focal point is a member of the security cell, which meets once each week. Security information shared with the agencies, funds and programmes is shared with the forum. A United Nations security fact sheet covering alert state, relocation and evacuation procedures, concentration points in Juba, designated safe havens, relocation air routes, key security tools, access control procedures and the plan in response to protection of civilians incidents, among other things, has also been disseminated. In mid-April 2017, the Office for the Coordination of Humanitarian Affairs and the Department of Safety and Security, along with an international non-governmental organization member of the Saving Lives Together framework oversight committee, will hold a joint teleconference with members of the security cell in Juba to further clarify roles and responsibilities under the Saving Lives Together framework and to ensure that all parties have a more realistic and focused approach and are better prepared to respond to crisis situations. In follow-up, incoming security focal points of the international non-governmental organizations

forum will be briefed upon their arrival on the implementation of the Saving Lives Together framework in South Sudan.

Medical response

To improve on-site medical response capacity, a surgical team and support staff have been installed at the United Nations House to provide trauma care. The United Nations House clinic has been upgraded to a "level I plus" facility and at present has a new operating theatre, upgraded X-ray and laboratory facilities and on-site blood supply to handle emergencies, including kinetic incidents, and to stabilize casualties, pending evacuation to a higher-level medical facility.

Malakal

UNMISS has also made significant efforts to implement the recommendations of the Malakal board of inquiry, which include the reinforcement of perimeter security (layers of fencing, deepened ditch, elevated berm and buffer zone). Six high-rise watchtowers and a total of 27 (24 hours a day/7 days a week) observation and sentry posts are in place and firing positions have been constructed along the perimeter to enable more peacekeepers to actively guard it. The Mission has also widened the internal and external perimeter patrolling routes. With respect to robust, proactive security activities, troops are engaged in regular patrolling around the perimeter of the protection of civilians site and UNMISS base, and there is increased troop presence at the access gates to assist United Nations police when necessary. United Nations police and formed police unit personnel are also diligently patrolling within the protection of civilians sites. Cordon-and-search operations have also increased and are currently being conducted on a daily, weekly or monthly basis, either by section or of the camp in its entirety. A culture of robust action through regular training and rehearsals of the rules of engagement and use of force is being instilled.

To implement the recommendations on systemic and strategic issues, the Secretariat task force began its work by circulating the recommendations of the independent special investigation to all 16 peacekeeping operations and sought feedback on the systemic challenges identified in the recommendations. The task force devised and discussed concrete action points to provide a way forward to address the systemic and strategic shortcomings identified in the report, so that in the event of a similar crisis, United Nations peacekeeping missions are better prepared to protect civilians and United Nations personnel. The main action points and achievements are as follows:

- Performance accountability: the Department of Peacekeeping Operations undertook a comprehensive mapping of existing policies and best practices on performance and accountability for both civilian and uniformed personnel. A framework of accountability for performance in implementing the protection of civilians mandate is currently under development. The framework seeks to consolidate and clarify existing policies and mechanisms, with a focus on senior leadership and a view to recognizing and promoting good performance. The Office of Military Affairs also worked with Member States to explore ways to ensure the accountability of uniformed personnel for failure to protect civilians. In January 2017, the Working Group on Contingent-Owned Equipment recommended that the relevant statement of unit requirements indicating the operational capabilities and expected tasks of uniformed personnel be attached to the memorandum of understanding. The memorandum of understanding is a binding document for troop-contributing

countries, establishing accountability for the agreed tasks. If approved by the General Assembly at its second resumed session, the Secretariat intends to attach statements of unit requirements to all current and future memorandums of understanding with troop- and police-contributing countries.

- Guidance and readiness: the Department of Peacekeeping Operations undertook a comprehensive review of the direction provided to senior mission leaders on effective mandate implementation, including the protection of civilians. A protection of civilians crisis management tabletop exercise for civilian heads of mission was developed and piloted in January 2017 and will henceforth be included in all mission leadership induction programmes. A similar exercise for Force Commanders and Deputy Force Commanders is being developed and is due to be rolled out during the upcoming intensive orientation course in May 2017. The Office of Military Affairs also reviewed the guidance given to incoming Force Commanders. Instead of updating the generic Force Commanders directive, mission-specific guidance is currently issued during the induction of all new Force Commanders. The guidance complements the existing Force Headquarters Handbook, which covers in detail the more generic aspects of a Force Commander's duties and responsibilities. The Police Division is also reviewing the final draft of the guidelines for United Nations police in implementing the protection of civilians, intended to ensure, among other tasks, that all United Nations police capacity-building supports the establishment of a protective environment and that formed police units respond appropriately to physical threats against civilians. Upon mandate renewal, the Department of Peacekeeping Operations will ensure the timely issuance of guidance on mandate implementation to peacekeeping operations, including on the protection of civilians, where relevant. With regard to readiness, all peacekeeping operations have been requested to share their integrated crisis response contingency plans for validation by United Nations Headquarters. The conduct of regular scenario-based exercises to validate, refine and rehearse those plans, including the command and control of their implementation, is being streamlined. Troop- and police-contributing countries have also been reminded of the importance of compliance with the requirements concerning language proficiency, which is necessary to enable military and police personnel deployed in the missions to work effectively together in the implementation of United Nations mandates. In addition, as agreed in the memorandums of understanding, relevant personnel who fail the language proficiency test are repatriated. As an immediate measure to address the readiness of uniformed personnel serving in UNMISS, all troop- and police-contributing countries were requested, through a note verbale sent in December 2016, to confirm in writing to the Department of Peacekeeping Operations the willingness of their personnel to conduct dismounted patrols, including standing patrols by day and by night outside the perimeter of United Nations compounds and protection of civilians sites in South Sudan, among other things. Almost all of the infantry troop-contributing countries have responded in the affirmative.

- Training: the Secretariat validates the predeployment training programmes of all troop- and police-contributing countries to ensure that the curriculum includes scenario-based training for commanders on the rules of engagement, mandate implementation and use of force in support of protection of civilians activities. Training programmes within missions have been reinforced to include scenario training on the protection of civilians and, increasingly, the prevention of conflict-related sexual violence. An assessment of in-mission training needs with regard to the protection of civilians is also under way. The Secretariat is also strongly encouraging police-contributing countries to

increase the deployment of qualified women police officers to support key protection tasks, including community-oriented policing and addressing sexual and gender-based violence. As at April 2017, women made up 18 per cent of the police officers deployed.

- Staff morale and welfare: the Secretariat initiated various measures to increase psychosocial support, resilience and trauma counselling in field missions, as well as for staff morale and welfare. Some of the programmes include expanded individual in-person and telecounselling across the Mission to include deep field locations, additional training for emergency and crisis management and self-care and expanded options for staff welfare, including enhancement of accommodation and office and recreational facilities. In addition, internal staff rotation policies are under review to allow staff in the most difficult duty stations to be rotated within the Mission to ensure that stress and trauma are managed.

Significant work has been undertaken over the past five months to enhance the ability of UNMISS to protect civilians, to better plan and prepare its response to crisis situations and to increase staff safety and security, as well as to address the systemic issues plaguing peacekeeping operations in general. The Secretariat task force established to address the systemic issues and implement the recommendations of the independent special investigation was set up for a limited period of time; however, some of the identified action points will require a longer time frame for implementation. The Department of Peacekeeping Operations, the Department of Field Support and United Nations partners will continue to work on these issues in order to strengthen the military, police and civilian capabilities of peacekeeping operations, including through guidance, training and accountability to effectively deliver on mandates, including the protection of civilians, through a regular workflow. The Secretariat will also continue to provide updates, as appropriate, through existing reporting mechanisms.

With regard to UNMISS, both the Mission and the Secretariat concur that, while much has been achieved, more needs to be done to further raise the performance bar. UNMISS, in coordination with the Secretariat, is already reviewing and revising its overall mission concept and strategy (including force laydown) to more effectively deliver on mandated tasks. The process is informed by the lessons learned from the multiple crises experienced in 2016 and the paramount expectation that all Mission components employ an outward-looking and more assertive posture and approach in delivering mandated activities. The UNMISS senior leadership team has set the tone for the effective delivery of the protection of civilians mandate. I expect the newly appointed UNMISS Force Commander to play an equally pivotal role in this ongoing endeavour.

The Department of Peacekeeping Operations and the Department of Field Support will also work closely with UNMISS to sustain the achievements made to date on the protection of civilians and crisis response and preparedness. This will include a continued dialogue with Member States to uphold performance standards for all peacekeepers deploying to UNMISS and a strategy to institutionalize and standardize the approach to the protection of civilians through the deployment of mobile training teams to the Mission to deliver context-specific training for uniformed and civilian personnel.

These efforts notwithstanding, effective mandate implementation will hinge on an enabling political, security and operational environment. I urge the Security Council to make a concerted effort to ensure that the Transitional Government of National Unity cooperates fully with UNMISS to ensure freedom of movement and that it assumes its primary responsibility to protect civilians, including taking

proactive measures to reduce ethnic tensions and holding accountable those who perpetrate egregious acts against civilians, protection of civilians sites and United Nations and humanitarian personnel and premises. Finally, if UNMISS is to be an effective tool in the achievement of a sustainable peace for South Sudan, the Security Council, in coordination with the region, must immediately pursue a collective strategy to facilitate a cessation of hostilities and ensure inclusivity in the national dialogue and in the implementation of the peace agreement. Without such a political strategy, the demands on UNMISS will continue to increase while its operating environment becomes further constrained.

(*Signed*) António **Guterres**